

DOCKET

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
and notice at the offices of Sanders Associates, Inc., Daniel  
Webster Highway, White Plains, New York, on November 2,  
1976, MIDWAY MANUFACTURING CO.

VS.

THE MAGNAVOX CO.

NUMBER  
74 CIV 1657 CBM

VS.

SANDERS ASSOCIATES, INC.

\* \* \* \* \*

UNITED STATES DISTRICT COURT

Representing Sanders Associates, Inc., Plaintiff, for Plaintiff  
in Illinois - Eastern Division

THE MAGNAVOX CO., ET AL

CONSOLIDATED  
74 C 1030  
74 C 2510

Representing VS. The Magnavox Co.

BALLY MANUFACTURING CORP., ET AL

\* \* \* \* \*

Representing UNITED STATES DISTRICT COURT

Thomas D. FOR THE, Plaintiff, Plaintiff in Illinois  
1976, Plaintiff, Plaintiff in Illinois  
NORTHERN DISTRICT OF CALIFORNIA

ATARI, INC.

VS.

C. A. NUMBER  
C 75 1442 WTS

THE MAGNAVOX CO. AND SANDERS  
ASSOCIATES, INC.

ORIGINAL

Deposition of RICHARD I. SELIGMAN taken by Subpoena  
and notice at the offices of Sanders Associates, Inc., Daniel  
Webster Highway South, Nashua, New Hampshire, on November 20,  
1975, commencing at 10:00 a.m.

APPEARANCES

Representing Midway Manufacturing Co., Bally Manufacturing  
Corp., and Empire Distributing:

Sanders #2 Donald L. Welsh, Esquire, and A. Sidney Katz,  
Esquire, 135 South LaSalle Street, Chicago,  
Illinois Tape Spacewar 43

Sanders #4 Phoneogram 43

Representing Sanders Associates, Inc., and The Magnavox Co.:  
Sanders #5 <sup>15</sup> <sub>14</sub> <sup>53</sup> <sub>54</sub> <sup>55</sup> <sub>56</sub> <sup>57</sup> <sub>58</sub> <sup>59</sup> <sub>60</sub> <sup>61</sup> <sub>62</sub> <sup>63</sup> <sub>64</sub> <sup>65</sup> <sub>66</sub> <sup>67</sup> <sub>68</sub> <sup>69</sup> <sub>70</sub> <sup>71</sup> <sub>72</sub> <sup>73</sup> <sub>74</sub> <sup>75</sup> <sub>76</sub> <sup>77</sup> <sub>78</sub> <sup>79</sup> <sub>80</sub> <sup>81</sup> <sub>82</sub> <sup>83</sup> <sub>84</sub> <sup>85</sup> <sub>86</sub> <sup>87</sup> <sub>88</sub> <sup>89</sup> <sub>90</sub> <sup>91</sup> <sub>92</sub> <sup>93</sup> <sub>94</sub> <sup>95</sup> <sub>96</sub> <sup>97</sup> <sub>98</sub> <sup>99</sup> <sub>100</sub> <sup>101</sup> <sub>102</sub> <sup>103</sup> <sub>104</sub> <sup>105</sup> <sub>106</sub> <sup>107</sup> <sub>108</sub> <sup>109</sup> <sub>110</sub> <sup>111</sup> <sub>112</sub> <sup>113</sup> <sub>114</sub> <sup>115</sup> <sub>116</sub> <sup>117</sup> <sub>118</sub> <sup>119</sup> 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INTERROGATORIES PROPOUNDED BY MR. WELSHEXHIBITS MR. ANDERSON: As a first

threshold matter, we are proceeding this

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that Sanders Associates, Inc., has also been served with a subpoena under Rule 30-B-6, which we think is a nullity or, at least, no different than in its consequences, the Notice to Parties under Rule 30-B-6, that a subpoena is not the proper procedure under Rule 30-B-6 or under any other rule against a party. We will proceed with this deposition under the Notice and with the understanding that the subpoena is no more or less than the Notice provided for in the rules with

respect to parties. In that regard to

(DEPOSITION OF RICHARD I. SELIGMAN) rd, we have

prepared and will serve upon you now an

(The Deponent was duly sworn.) subpoena duces tecum

which was served on Sanders Associates,

INTERROGATORIES PROPOUNDED BY MR. WELSH matter, we

have produced MR. ANDERSON: As a first

threshold matter, we are proceeding this

morning with Mr. Richard Seligman as the

designee of the Plaintiff, Sanders

Associates, Inc., in response to the Notice

of Deposition under Rule 30-B-6. We note

that Sanders Associates, Inc., has also

been served with a subpoena under Rule

30-B-6, which we think is a nullity or,

at least, no different than in its

consequences, the Notice to Parties under

Rule 30-B-6, that a subpoena is not the

proper procedure under Rule 30-B-6 or

under any other rule against a party. We

will proceed with this deposition under

the Notice and with the understanding

that the subpoena is no more or less than

the Notice provided for in the rules with

respect to parties. In that regard to make our position of record, we have prepared and will serve upon you now an objection to the subpoena Duces Tecum of which was served on Sanders Associates, Inc. As a second threshold matter, we have produced documents for you on several occasions in the past in response to, first, Interrogatories and then the request for production of documents. We produced some additional documents this morning. Among those documents are a group that we consider to be confidential and we already have a stipulation between you, Mr. Welsh, and Midway, your client, and our firm, and our client, Magnavox and Sanders for handling such confidential documents and those documents, as you understand from our conversations, are being produced pursuant to our confidential stipulation. I think you indicated that was agreeable at this time, is that correct? "confidential" MR. WELSH: "Yes. of this litigation." MR. ANDERSON: I might point

out that we were advised by Sanders long after we entered into our stipulation that the word "confidential" could not be used to stamp these documents because of the confusion that that generates with respect to the Government classification "confidential", which it is exclusively used for Sanders for designating the any Government confidentials and we have ~~had~~ stamped these documents with another stamp, "Company Private Data", and that is used by the company on other things. Some of the other documents that we produced for you that we don't consider to be ~~as~~ in any confidential, we have pended in the number 741030. Every document that is classified by "confidential" for purposes of this lawsuit has been stamped with a rubber stamp, "Company Private Data", and under that in longhand, C-1030. Any other stamps of any kind will not indicate that this document has been classified as a "confidential" for purposes of this litigation, if that is all right.

order of court. MR. WELSH: Yes. Page of these proceedings. MR. ANDERSON: The next aspect of the general situation: You indicated that you would like to identify the files that we have produced that contain the company private data or the confidential data, and we have no objection to having Mr. Seligman identify the files and any aspects of where they came from or who produced them, with Mr. Herbert and Mr. Bushnell in the room, and on a record that will be filed with the court. However, we would object to going into the contents of any of those confidential files in any depth that would become a part of the record in the case with Mr. Bushnell or ~~or~~ <sup>agreeable</sup> Mr. Herbert present. It may be the case that Mr. Herbert may ultimately sign a Protective Order and then we will show the contents of these files to him on the same basis that we are showing them to you as counsel for Midway. There is no condition under which we will permit Mr. Bushnell to see the files unless by

order of court at a later stage of these proceedings. Mr. Herbert, is that acceptable? of privilege by designating him as ~~Sand~~ MR. HERBERT: It sounds like it is but do you have a copy of the Protective Order or is it reduced to writing? It is my understanding that you and I agree MR. ANDERSON: Yes, it is reduced to writing and, yes, we do have a copy of it. I think that completes our preliminaries. There is one other thing that you and I discussed yesterday and I would like to make part of the record, the fact that Mr. Seligman is a lawyer and we have produced Mr. Seligman because he is, we think, the most knowledgeable about where the files came from, what's in it and who searched for them and so forth. As I indicated to you on another case, we have recently had a situation arise where an adversary took the position by producing an attorney as the designated witness under Rule 30-B-6, there was a waiver of attorney-client privilege. I

would not be willing to produce, pursuant to Rule 30-B-6, to identify documents, we are not waiving the attorney-client privilege, at all. At a later date, if you wish to take Mr. Seligman's deposition, this agreement stipulation doesn't apply to that, and we'll take our stand at that time with respect to Mr. Seligman as a specified noticed witness. on the 23th day of November, 1981.

MR. HERBERT: That is unacceptable, New Hampshire. By agreement of counsel.

MR. WELSH: That is acceptable to me.

Let the record show that this deposition of Sanders Associates, Inc.,

is being taken under Rule 30-B-6 pursuant to Notice served by Plaintiff, the case of Midway Manufacturing Company versus the Magnavox Company and Sanders Associates, Inc., and is in the United States District Court for the Southern District of New York, Civil Action number 74 Civ 1657 CBM, and was, by Defendants Bally Manufacturing Notice Corporation, Midway Manufacturing Company, and Empire Distributing, Inc., in the United States District Court for these has Northern District of Illinois, Eastern Division, in the case of the Magnavox Company, et al, versus Bally Manufacturing Corporation, et al, consolidated Civil of Action numbers 74 C 1030 and 74 C 2510. Those Notices called for commencement of the depositions on the 20th day of November, 1975, at the Holiday Inn in Manchester, New Hampshire. By agreement of counsel for Magnavox and Sanders and counsel for Bally, Midway and Empire, the place of taking of the deposition was changed to the corporate offices of

Sanders Associates on Daniel Webster, you South in Nashua, New Hampshire. Mr. Herbert, would you like to -- I guess as far as the Rule 30-B-6 is concerned, there was no Notice in your case, is that correct? which you wanted to MR. HERBERT: No. it Notice be our deposition for the employees themselves, and in our Notice in the case, the Notice is for the United States District Court, Northern District of California, Civils, Action number C 751442 WTS, which case has been transferred to Chicago at Mr. Melrose.

MR. WELSH: I might say that continuing after the deposition of being Sanders Associates will be depositions of employees of Sanders Associates pursuant to Notice in the two suits indicated above in the two courts. The witnesses designated in the Notice are Mr. Ralph Baer, H. S. W. Campman, Jr., John Sauter, the Daniel C. Chisholm, Louis Etlinger, Iker, William L. Harrison, John A. Melrose, William T. Rusch, and Richard Seligman, and William Stapanishen.

whom you have MR. ANDERSON: Mr. Welsh, you requested in the Notice all of these people for the same time, dates and place, and, I think, in response to our question, you have advised us of a sequence in which you wanted to take them, and it might be well to make that of record. I also might mention for the record, as I think you have recognized, perhaps, Mr. Sauter is no longer an employee of Sanders Associates, Inc., and not under Sanders' control, and neither is Mr. Stapanishen or Mr. Melrose.

MR. WELSH: Yes. I believe you advised us of their no longer being employed. We advised Mr. Williams by telephone of the proposed order of taking of the depositions and they were first, a person or persons designated by Sanders to testify with respect to documents and things set forth in the attachment to the subpoena to Sanders. Next, Ralph H. Baer, William T. Rusch, William L. Harrison, David Batchelder, H. W. Campman, Jr.; next were listed Mr. Stapanishen and Mr. Sauter,

whom you have indicated are no longer employees. They were followed by Daniel C. Chisholm, John Melrose, Louis Etlinger, and Richard I. Seligman. Now, in our telephone conversation with Mr. Williams, he indicated that Mr. Melrose was employed on a consulting basis with or by Sanders, but in a letter, following our confirming letter, that he is no longer employed by Sanders. Did you mean not employed full-time or not employed on a consulting basis?

MR. WILLIAMS: Perhaps Mr. Seligman knows more. As far as I know, he's not a full-time employee and not under the control of Sanders Associates.

MR. WELSH: You have indicated you would not be responsible for producing Mr. Melrose. I'm wondering, as long as we're here, and if we reach him, you will undertake to persuade him to appear.

MR. ANDERSON: We won't tell him not to.

MR. WELSH: A subpoena was served on him in Manchester and by

agreement of counsel we changed the time and place to Nashua and we agreed upon the order of examining the witnesses, expecting that they were employees, thus subject to some control by Sanders. If there is going to be any difficulty with respect to Mr. Melrose, I would like to know it now, so that we can take proper steps.

MR. ANDERSON: Now, according to Mr. Williams' letter, said that Sanders will contact Melrose and notify him that he should not appear at the time and place designated in the subpoena to him. However, Sanders cannot be responsible for producing him at some further time.

MR. WELSH: Although you cannot be responsible, is it possible that you will be able to persuade him to appear in the order of examining witnesses that we have indicated?

MR. ANDERSON: We will advise him of the alternate date and place and ask him to appear, but we cannot be responsible --

his response. MR. WELSH: If he won't appear, it is beyond your control. In other words, do I understand correctly that you will make every effort to have him be here?

MR. ANDERSON: We'll ask him to. Where do you live, Mr. Saligman?

8 Whitton Drive, Nashua. MR. WELSH: Can we find out if You're the he will be able to appear in the orders to testify what we have designated?

in the Notice of Deposit. MR. ANDERSON: We can't give Sanders him any information. He's pretty well

down the list, and I think it probably

What is your will be sometime in December before you

I'm a patent get to him, and I suggest that you just

Do you have defer that question until we get closer to

Assistant Pat the date, unless you want to name a firm

When do you date and place and time for him.

Louis Erlinger. MR. WELSH: I just thought, if

What is his there was any question of his voluntarily

Director of appearing from a request by Sanders, we

Are you in should know it parent?

In the Patent Department. MR. ANDERSON: We'll agree to

When you notify him when you give us a firm time

corporate or and place and date, and we will give you

8 A. Mr. Etlinger his response. If he says yes, he will be  
President of there, we will report this to you and if

9 Q. Is Mr. Etlinger he says he wants a subpoena, we'll report  
particulars that to you as well. Do you know?

10 A. I think it has to do with MR. WELSH: All right.

11 Q. (By Mr. Welsh) Where do you live, Mr. Seligman?

12 A. 8 Whitton Drive, Nashua, New Hampshire.

13 Q. You're the witness designated by Sanders Associates  
to testify with respect to the documents requested

14 A. in the Notice of Deposition? You're employed by

15 Q. Sanders Associates, I take it? ~~so to that time?~~

16 A. Yes.

17 Q. What is your position with Sanders Associates?

18 A. I'm a patent attorney.

19 Q. Do you have a title other than patent attorney?

20 A. Assistant Patent Counsel.

21 Q. Whom do you report to as a patent counsel?

22 A. Louis Etlinger. ~~the title prior to your license~~

23 Q. What is his position? ~~the title prior to that~~

24 A. Director of Patents and Licensing.

25 Q. Are you in a particular department? ~~in your~~ ~~to that~~

26 A. In the Patent Department. ~~in your~~ ~~to that~~

27 Q. Where does the Patent Department fall in the

28 A. corporate organization? ~~in your~~ ~~to that~~ ~~the last three years~~

A. Mr. Etlinger reports to Daniel Chisholm, a Vice-President of Sanders.

Q. Is Mr. Chisholm -- does his Vice-Presidency have any particular area of responsibility, do you know?

A. I think it has to do with corporate planning.

Q. Do you know who Mr. Chisholm reports to? that time?

A. No.

Q. How long have you had your present position of Sanders Assistant Patent Counsel? with this deposition?

A. Possibly a little more than three years.

Q. Were you employed by Sanders prior to that time?

A. Yes.

Q. How long have you been employed by Sanders? you

A. Since June of 1966.

Q. Have you been a patent attorney during that entire time? my subpoenas coming in through here in the last

A. Yes. days.

Q. Did you have any other title prior to your becoming Assistant Patent Counsel? look this Sanders Exhibit One.

A. Patent Attorney. NUMBER ONE FOR IDENTIFICATION --

Q. Was there an Assistant Patent Counsel prior to that time?

A. No. will state for the record that first you

Q. Have you reported to Mr. Etlinger the last three years

when you have been Assistant Patent Counsel?

A. Yes. subpoena but, in fact, the first page is

Q. Did you report to him also prior to that, during your employment here at Sanders? Receipt and Return", and I am not

A. Yes. sure if you showed that to the witness or

Q. Have you reported to anybody else during that time?

A. No. object to the subpoena and we think it is

Q. Do you know whether a subpoena was served on Sanders

Associates in connection with this deposition?

A. Yes. testimony that you may elicit that could

Q. Have you seen a copy of that subpoena? at you did serve

A. Yes. on Sanders Associates.

Q. I show you what appears to be a copy. Can you identify it as such? first page of this document,

A. I believe it is. I can't say for sure. There were so many subpoenas coming in through here in the last few days. Receipt and Return", return of service by

the United States Marshal: I would like the reporter to mark this Sanders Exhibit One.

(SANDERS EXHIBIT NUMBER ONE FOR IDENTIFICATION --

Subpoena marked and entered.) exhibit.

Q. Mr. Welsh? Do you know MR. ANDERSON: Mr. Welsh, I

served, Mr. will state for the record that first you

A. I don't remember referred to the document you had the

Q It bears a reporter mark as Exhibit One as a. Do you have any subpoena but, in fact, the first page is  
than this? entitled, "United States Marshal's Service,

A It was in the Process, Receipt and Return", and I am not

Q When did you sure if you showed that to the witness or

A When the ~~law~~ some other document, and I will say we

Q Could you do object to the subpoena and we think it is  
- Marshal came improper to subpoena a party and will

A Yes. We ~~will~~ resist any position that you may take or

A reception of testimony that you may elicit that could

personally distinguish that Notice that you did serve  
pick him up on Sanders' offices.

Q When you say "we", who ~~do~~ MR. WELSH: I agree with you

A Mr. Ellinger that the first page of this document,

minute or so which is a multi-page document, is the first  
time he to the United States Marshal's Service, Process,

Q You did not Receipt and Return", return of service by

A I did not. the United States Marshal, and it is that

Q Did Mr. Ellinger page of the return which is attached to a

A Mr. Ellinger copy of the subpoena, which the reporter  
subpoena? has marked as the exhibit.

Q (By Mr. Welsh) Do you know when the subpoena was

Q served, Mr. Seligman? along with this subpoena or the

A I don't remember which date.

Q It bears a date of service, November 12, 1975. Do you have any reason to believe it was any date other than this? You should be specific and singular in

A It was in that area. There were no other

Q When did you first see the subpoena?

A When the Deputy Marshal came into Sanders than this

Q Could you describe the circumstances when the Deputy

A Marshal came into Sanders?

A Yes. We received a call that he was down at the reception desk and we sent, I don't know if we personally went down there or sent, somebody to pick him up and bring him to our offices. and, a copy

Q When you say "we", who do you mean by "we"?

A Mr. Etlinger and myself. We talked to him for a minute or so and then, I believe, Mr. Etlinger brought him to the office of Mr. Chisholm.

Q You did not go with them? copy?

A I did not. I had a file, I believe, containing the

Q Did Mr. Etlinger return from the office of

Mr. Chisholm with the subpoena or any other?

A subpoenas? sure whether it was the original or a copy.

A I think he did. of what she had in her file.

Q Do you know what was done with this subpoena or the other subpoenas?   
MR. ANDERSON: Mr. Welsh, can

we stipulate. MR. ANDERSON: So I object to the question and the alternative. I think you should be specific and singular in your question. There were no other ~~st~~-cut subpoenas identified.

Q. (By Mr. Welsh) Were there other subpoenas than this one brought by the Marshal? ANDERSON: We'll so

A. Yes. stipulate.

Q. Do you know what subpoenas those are? Thank you.

A. A number of subpoenas directed to employees of Sanders Associates and to other people served at the

Q. Do you know what was done with this subpoena, a copy of which has been marked as Exhibit One? the same time and.

A. No. in a short period of time, served on certain ones

Q. Did you bring a copy of it with you?

A. Yes. the witnesses called into your offices?

Q. Where did you obtain the copy?

A. My secretary had a file, I believe, containing the subpoena. ~~over~~, Mr. Chisholm, Mr. Clegg, I can't

Q. You mean the subpoena that the Marshal served?

A. I can't be sure whether it was the original or a copy, but I made a copy of what she had in her file.

Q. Do you know how that copy got into her file? ~~ferences~~ under which you received. MR. ANDERSON: Mr. Welsh, can

we stipulate that the subpoena you're referring to which is attached to in Exhibit One was, in fact, served on Sanders Associates? Would that short-cut it? Edit this as much as possible.

MR. WELSH: Oh Yes. It also seems irrelevant. MR. ANDERSON: We'll stipulate noticed for this witness.

MR. WELSH: Thank you. as long

Q. (By Mr. Welsh) With regard to the other subpoenas ask that the Marshal had, were they all served at the same time by him? later.

A. They were brought to our offices at the same time and within a short period of time, served on certain ones of those subpoenaed, yes.

Q. Were the witnesses called into your offices?

A. Some were. I handed a copy of the Notice in the

Q. Do you remember who they were? of the Notice in the

A. Mr. Etlinger, Mr. Chisholm, Mr. Campman, I can't recall if anyone else was. is touch to recall.

Q. Did you receive a subpoena? and A and I can't remember

A. Yes. Notice I saw. I may have seen all of them or

Q. How did you receive it? What were the circumstances under which you received yours?

Q Who is it familiar? MR. ANDERSON: I object to  
A I have seen this question and line of questioning  
Q What is attached outside of Rule 30-B-6.

A That is the number of various MR. WELSH: I would like to  
produced. expedite this as much as possible.

Q Is that also an attachment? MR. ANDERSON: It also seems  
A I believe so. irrelevant at this time, anything that  
Q Did you have has been noticed for this witness.

A behalf of Sanders Associates MR. WELSH: I thought as long  
I have particular as we were on the subpoenas, I would take  
files. care of his at this time, but I can pick  
Q How did you it up later. me to do that?

Q (By Mr. Welsh) Did you also see the Notices or copies  
of Notices of taking this deposition of Sanders  
Associates? most of the documents which were

A Can I take a look at it? It looks familiar. department.

Q You were just handed a copy of the Notice in the  
Illinois case. There is a copy of the Notice in the  
A New York case, and I ask you if you saw that.

A I may or may not have. It is tough to recall. I  
certainly have seen attachment A and I can't remember  
which Notice I saw. I may have seen all of them or  
Q may not. The A attachment, of course, is very  
A familiar. Interroatories were served in the case,

Q Why is it familiar? order to assist our counsel in  
A I have seen it a number of times, I guess. documents

Q What is attachment A? to this matter.

A That is the number of various documents to be?"  
produced, listed by, primarily by Ralph Baer and my

Q Is that also an attachment to the subpoena?

A I believe so. "our counsel", who did you mean by

Q Did you have anything to do with attachment A on  
behalf of Sanders Associates? on to supply to

A I have participated in the gathering of documents and  
files. assigned you that task?

Q How did you happen to come to do that?

A Because I had prepared and written most of the  
patent applications regarding subject matter and  
probably knew most of the documents which were  
available, particularly those in the patent department.

Q Were you assigned a specific task of gathering the  
documents? and things listed in attachment A? account of

A Many of the documents, in fact, most of the documents  
I was assigned the task of gathering them in aid of  
preparation for the Interrogatories served on Sanders.

Q When was that? other sources?

A I don't think I could come up with a date, but when  
the earliest Interrogatories were served in the case,

Q Interrogatories, in order to assist our counsel in preparing the answers, we gathered all the documents that were pertinent to this matter.

Q You say "we gathered", who do you mean by "we"?

A I was assisted by, primarily by Ralph Baer and my secretary, Marcella St. Dennis, yes.

Q You said for "our counsel", who did you mean by "our counsel"? my knowledge.

A I was gathering the information to supply to my right Mr. Williams, especially at home?

Q Who assigned you that task? sure, but I think we asked

A Mr. Etlinger. ything they had regarding this matter.

Q Do you recall what you looked for at that time? What

A I would say everything that pertained to T.V. Gaming that we could find. thin the company that privately

Q Where did you look for those items? property.

A Much of the information came out of the files of the patent department at Sanders. A substantial amount of it was obtained from the inventors. Some was obtained from our independent research office. I would say those were the primary sources of information.

Q Were there any other sources?

A At the time of the Interrogatories, I can't recall any. ~~any~~

Q. You say you obtained substantial amounts from the inventors. Would you name the inventors who you meant? Went to the time when you made a search for

A. Mr. Baer, Mr. Rusch and Mr. Harrison.

Q. Were those personal files kept by them? You make any

A. There were files that they kept, yes, to the subject

Q. Did they keep them here at Sanders?

A. To the best of my knowledge.

Q. Did you ask for any item from them which they might have kept personally at home? Response to the latest

A. I think we did. I can't be sure, but I think we asked them for everything they had regarding this matter.

Q. You referred to the independent research office. What is that? A request prior to that time for documents

A. That is a group within the company that privately funds projects carried out in the company.

Q. Under what department is that? ~~artificial~~ Laboratories

A. I don't know the exact title of the department.

Q. Do you know who would know?

A. Yes, the head of the department. It's very hard to say. Every

Q. The head of the independent research office?

A. Right. ~~possibly~~ had to do some further searching to provide

Q. Do you know who that is? ~~these~~ Laboratories.

A. Mr. Campman. Any request for documents as distinguished

Q. Do you know how long he has headed that department?

A. No. There have been a number of those that we have

Q. Subsequent to the time when you made a search for

Q. materials in connection with the earliest

A. Interrogatories in this litigation, did you make any further search for materials relating to the subject matter of the patent in suit?

A. Yes. You have before you a document entitled,

Q. When was the next time you made such a search?

A. We gathered many documents in response to the latest

A. requests.

Q. Do you know when that was? Your recollection as to . . .

A. Within the last week or so. And, if so, when they

Q. Was there a request prior to that time for documents

A. and things from Sanders? Particular document asking

A. I don't recall documents from Midway. The particular

Q. So that from the time of the earliest Interrogatories, you made no further search until a week or so ago in connection with this? You know, that I actually, really

A. A week or so ago, that is probably hard to say. Every

Q. time Interrogatories were presented, I am sure that we possibly had to do some further searching to provide information for answering these Interrogatories.

Q. Do you recall any request for documents as distinguished

from Interrogatories? items identified in the requests

A. Yes. There have been a number of those that we have  
been given. sure I discussed it.

Q. Do you remember any requests by Midway? *ns?*

A. I would be hard put to remember exactly who a particular document -- I know we had a number of requests for production of documents.

Q. I see you have before you a document entitled,

"Plaintiff's responses to Defendant Midway's Request for Production"? 11 these people are not in

A. Right! It says, "I am to maintain, and to

Q. Does that help refresh your recollection as to

whether Midway made a request and, if so, when they

made it? places where you ought to search for documents?

A. I just can't recall a particular document asking

production of documents from Midway. The particular

document, I can't remember. I know we complied with

a number of such requests, but I can't remember any

particular one that, you know, that I actually, really  
remember seeing Midway on.

When such requests were received, were you given the

and so on, according to the requests, by that I mean,

A yes would be

78 Q. Did you discuss the items identified in the requests with anyone? to other possible places and I believe

A. Yes, I am sure I discussed it, but I just don't

79 Q. With whom would you have such discussions? that we

A. With Mr. Baer, Mr. Etlinger and Mr. Williams.

80 Q. Was each such request discussed with all of those people?

A. No, you know who would know what places we'd

1 Q. Was the request referred to in the papers before you discussed with all those people? we was brother

A. I can't say we looked at some laboratory notebook not

2 Q. In your discussions with Mr. Baer and Mr. Etlinger and Mr. Williams regarding the requests, did you refer to places where you ought to search for documents?

A. I would think so, yes.

3 Q. Who would be the ones that you would have discussed that with, at least? office, inventors. I did order

A. Certainly Mr. Baer, because he was helping me to locate documents; perhaps with Mr. Williams and Mr. Etlinger, also. was his name?

Q. Did you discuss the possibility of looking for documents in places other than the patent department, the files of the inventors and the independent which

Q. research office? discussed the possibilities of

A. I can't recall the particulars, but I believe we ~~had~~ discussed some other possible places and I believe there were some phone calls made but I just don't ~~object~~ recall the details. Those were the areas that we expected to find documents in, testimony to with

Q. Do you recall any of the other possible places?

A. No. WITNESS: Maybe you ought to

Q. Do you know who would know what places were

Q. discussed? (sh) You stated that you had discussions

A. Let me back up a little bit. There was another of places that we looked at some laboratory notebook not belonging to any of these parties as possible sources of information. We such discussions about other

Q. When you say "laboratory notebook not belonging to

A. any of these parties -- Etlinger and Mr. Baer. We

A. The people I mentioned, the patent department, possible independent research office, inventors. I did order some laboratory notebooks of, I believe, a technician, I believe, working on the program. places, we

Q. What was his name? any other places that should have

A. David Batchelder.

Q. Did you discuss (Discussion off the record.) any time

Q. (By Mr. Welsh) Do you recall any other places which you searched for or discussed the possibilities of

A searching in your discussions which included Mr. Baer  
Q and Mr. Etlinger?

A Yesterday. MR. ANDERSON: I think I object.

Q What other ~~part~~ I think you're mischaracterizing his  
A ~~where our~~ ~~or~~ testimony, previous testimony to with  
Q whom he discussed searching and when.

A Programming types. WITNESS: Maybe you ought to  
Q Is there a ~~part~~ ~~or~~ restate that involved?

Q (By Mr. Welsh) You stated that you had discussions  
with some persons regarding other possible places of  
searching than the patent files, the files of the  
inventors and the independent research office. With  
whom did you have such discussions about other  
possible places?

A Well, Mr. Williams, Mr. Etlinger and Mr. Baer. We  
discussed, I think we tried to think of other possible  
places at that time when the first Interrogatories  
were served on us, and, to the best of my knowledge,  
I can't -- I think we picked those places, we  
couldn't think of any other places that should have  
any other documents.

Q Did you discuss other possible places at any time  
other than at the time when you received the earliest  
Interrogatories?

A. Yes.

Q. When was that?

A. Yesterday.

Q. What other places did you discuss yesterday?

A. Where our computer people work.

Q. What do you mean by "computer people"?

A. Programming types.

Q. Is there a particular department involved?

A. I believe it is called computer sciences; I am not sure of the title.

Q. Do you know who would know the title of that?

A. Mr. Frisbee.

Q. Who is he?

A. He works there.

Q. Do you know his first name?

A. Joe.

Q. Do you know who he reports to?

A. No.

Q. Is Mr. Frisbee in charge of the department?

A. I don't believe so.

Q. Do you know who is in charge?

A. No.

Q. Do you recall who suggested this as a possible place of search?

A. Possibly Mr. Etlinger.

Q. Do you recall how it came up?

A. Yes. We had a copy of a Spacewar tape and our attorneys thought that we ought to look into this matter further.

Q. What is a Spacewar tape?

A. Well, this copy is a punch tape that says Spacewar on it.

Q. You say you had a copy of a Spacewar tape?

A. Yes.

Q. What is Spacewar?

MR. ANDERSON: If you know.

A. I have seen a game programmed on a PDP 11 computer which was identified by someone who told me that it was called Spacewar.

Q. When did that occur?

A. Within the last maybe month or six weeks, something like that.

Q. Where did it occur?

A. At Sanders, at this building.

Q. Where in this building?

A. I believe in a room on the third floor.

Q. Is that room occupied by any particular department?

A. I don't know what department occupies it. It is

occupied, yes. a tape from him and I asked how he

Q. Is that the Computer Science Department?

A. I don't know.

MR. ANDERSON: I don't think

Q. Do you know where the Computer Science Department is?

A. Yes.

you might establish that first.

Q. Where?

MR. WELSH: I thought we had.

A. At least some of it, I believe, is in the basement of this building or one of the attachments to it. you

Q. Where did you obtain the Spacewar tape to which you referred? MR. ANDERSON: MR. WELSH: Yes, I think

A. From John Sauter. not. I don't know exactly.

Q. When did you obtain it from Mr. Sauter?

A. It was on or about, I believe a few days after he had left the employ of Sanders.

Q. When did he leave Sanders' employ? SECRETARY, I can't

A. Sometime in October of this year.

Q. Do you know where he's located now?

A. At Digital Equipment Corporation. by it was obtained

Q. Where are they located?

A. Maynard, Mass. here the tape had been before it was

Q. How did you happen to obtain the tape from Mr. Sauter?

A. No. All I know is that MR. ANDERSON: we I object for I don't know a lack of a foundation.

Q. Do you know why the tape MR. WELSH: He said he obtained

A I believe Mr. the tape from him and I asked how he

Q Do you know happened to do it. asked him for it?

MR. ANDERSON: I don't think he

he stated that he personally did. I think

you might establish that first. anyone

told him. MR. WELSH: I thought we had.

Q (By Mr. Welsh) Did you obtain the tape from Mr. Sauter?

A Not specifically, no. MR. ANDERSON: By him, you

Q Generally? mean him personally?

A In just a general way. MR. WELSH: Yes, ~~we~~ ~~we~~ ~~we~~ ~~we~~ was

A I personally did not. the Defendants in this action. --

Q (By Mr. Welsh) Do you know who did? a tape existed,

A Someone from our office.

Q Do you know who it was? ~~ened~~ to ask Mr. Sauter for the

A Perhaps Mr. Etlinger, perhaps his secretary, I can't

A say for sure. Sauter volunteered the fact that he had

Q When did you first see the tape?

A The day that we obtained it, the day it was obtained

by the Patent Department. of?

Q Do you know where the tape had been before it was

obtained by the Patent Department?

A No. All I know is that Mr. Sauter gave it to us. I

don't know where it was.

Q Do you know why the tape was obtained?

A. I believe Mr. Etlinger asked him for it.

Q. Do you know why Mr. Etlinger asked him for it?

at least, for a part of MR. ANDERSON: I object to the whether the question as vague and ambiguous. I don't

Q. Would you remind if you ask Mr. Seligman if anyone  
where you told him. I don't think he should --

Q. (By Mr. Welsh) Did Mr. Etlinger tell you? at about

A. Not specifically, no. to Spacewar and the fact that

Q. Generally? it up on a computer at the jets and some

A. In just a general way we learned that Spacewar was  
being instituted by the Defendants in this action  
and of general interest that if such a tape existed,  
we wanted a copy. gotten into the same business,

Q. Do you know how he happened to ask Mr. Sauter for the  
tape? with Spacewar to make it inexpensive enough

A. I think Mr. Sauter volunteered the fact that he had  
a tape. Mr. Sauter work at Faraday

Q. Did Mr. Etlinger have some conversation with where  
Mr. Sauter that you know of?

A. Yes. like you said that he didn't work here anymore.

Q. When did that take place? know. he was a plaintiff

A. Just prior to Mr. Sauter's leaving the company.

Q. Where did it take place? worked for?

A. In the Patent Department office.

Q. Were you present when it took place?

A. I was present at times when they talked, yes, or, at least, for a part of a conversation. I can't say whether entire conversations.

Q. Would you relate the portions of the conversation where you were present?

A. I think that we mainly talked about, somewhat about Sauter's relationship to Spacewar and the fact that he had put it up on a computer at Sanders and some of the relationships with respect to kinds of games that are the subject of said patents versus Spacewar and Mr. Sauter expressed his opinion that he would have liked to have gotten into the game business, but he certainly couldn't imagine how you could do anything with Spacewar to make it inexpensive enough to be available for any commercial endeavor.

Q. Where did Mr. Sauter work at Sanders?

A. I believe he's a programmer, but I don't know where he works.

Q. I believe you said that he didn't work here anymore.

A. Oh, you mean now. I don't know. He was a programmer in this building.

Q. Do you know how long he worked here?

A. No.

Q. You stated he put Spacewar on a computer at Sanders.

Q. Do you know what computer? came to the Patent

Department office?

MR. ANDERSON: I think he

A. No. testified to that already.

Q. When was it?

MR. WELSH: He said he didn't

A. I believe it know where he worked, but he didn't say

I saw Spacewar he didn't know what computer he put it on.

Q. You say that was a month? MR. ANDERSON: He did mention

A. Two months a computer but maybe not in that context.

recall the exact dates. WITNESS: He showed it to me

Q. You stated it on a PDP 11 or to us.

Q. (By Mr. Welsh) Is that the same one that you referred to earlier?

A. Yes.

Q. Was that the same occasion you referred to earlier?

A. I don't recall what I said earlier, what occasion.

I have seen it two or three times on the PDP 11.

Q. It was all about the same time, or six weeks, two months ago, in that kind of period?

A. I don't remember exactly. I don't know when it could be

Q. Was he present during all the times when you saw

it? you discuss how the game was played?

A. I don't believe so.

Q. But he was present on one occasion?

A. Yes.

Q. Was it the occasion when he came to the Patent Department office?

A. No.

Q. When was it?

A. I believe it was the first time we saw Spacewar or I saw Spacewar, I believe he was present.

Q. You say that was a month to six months ago?

A. Two months ago, somewhere in that period. I can't recall the exact dates.

Q. You stated that when Mr. Sauter was present in the Patent Department offices you discussed relationships with respect to the kinds of games that were the subject of patents in suit versus Spacewar. Could you be more specific as to what was discussed in that regard?

A. I think he just expressed his opinion that if it was possible, he would have liked to have gotten into the commercial game business. He was very enamored with computer games, but he couldn't see how they could be adapted to commercial games.

Q. Did you discuss how the games were played?

A. I don't believe so.

Q. Approximately how long was Mr. Sauter in the Patent

A. Department on that occasion of his conference with you and Mr. Etlinger? ~~whether it is to be used in connection~~

A. Maybe a half an hour, maybe less.

Q. Did you discuss the tape you referred to at that time?

A. I don't know. ~~whether it was to be used on a particular~~

Q. Do you know when Mr. Etlinger requested the tape?

A. It was during that period of time.

Q. What do you mean by "that period of time"?

A. When we were talking to Sauter.

Q. In your office? Sauter also gave us a print-out which

A. Yes. ~~believe~~ is the PDP 11 program.

Q. In the Patent Department office? Has any relation to

A. Yes. tape?

Q. Did he tell Mr. Sauter why he wanted the tape?

Q. Did he say when he made ~~it~~ MR. ANDERSON: By "he", you

A. I don't know ~~mean~~ Mr. Etlinger? ~~he made it~~ I believe

Q. (By Mr. Welsh) Yes. on the print-out.

A. If he did, I don't recall.

Q. Has anything been done with the tape since it was received in the Patent Department office?

A. We have shown it to Mr. Williams and Mr. Anderson ~~and Mr. Etlinger~~ yesterday. I can't say which day in October.

Q. Do you know what the tape is intended to be used for, that is, the tape that you have been referring to?

A. No. MR. WELCH: Will you produce

Q. Do you know whether it is to be used in connection with a computer? MR. ANDERSON: We will hand

A. I can't say, I know that, I know it is a punch tape.

Q. Do you know whether it was to be used on a particular computer? I understand is related to them.

A. Again I can't say I know that.

Q. Do you know the form of the Spacewar program for the PDP 11 that you observed?

A. Other than Mr. Sauter also gave us a print-out which I believe is the PDP 11 program. MR. EPSON: Yes, you may

Q. Do you know whether the print-out has any relation to the tape? which, I think, is in accordance with

A. I don't know.

Federal Rules and we will retain the

Q. Did he say when he made the print-out? would hesitate

A. I don't know if he said when he made it. I believe there are some dates on the print-out. to you at any

Q. It was received in the Patent Department, I take it?

A. Yes. with you and try to get you copies.

Q. When was it received? MR. WELCH: Where will they be

A. There is a date on the print-out which says October something. I can't say which day in October.

Q. Did you bring the print-out with you? will make them

A. Yes. available. until make these available.

three pieces. MR. WELSH: Will you produce it at this time? I don't want to make that same mistake.

MR. ANDERSON: We will hand you three items which I think go together: a print-out and a tape and a note which I understand is related to them.

Q. (By Mr. Welsh) Your counsel has now furnished me with what is the print-out, a tape, and a note attached to the tape by a paper clip.

MR. WELSH: May we mark these?

(PAPERS EXCHANGED) MR. ANDERSON: Yes, you may provided we have our usual stipulation which, I think, is in accordance with the Federal Rules and we will retain the originals in the case. I would hesitate to try to provide you with copies but will make them accessible to you at any time, and if you want copies, we'll work with you and try to get you copies.

(PAPERS EXCHANGED) MR. WELSH: Where will they be accessible? (PAPERS EXCHANGED)

MR. ANDERSON: We are reasonably adaptable and will make them available. We'll make these available,

these specific ones, because they're difficult to copy. I don't want to make that same stipulation with respect to the paper. That is copyable, and I think they should stay here at Sanders and the mass of material that we are producing.

Q (By Mr. Welsh) Just before MR. WELSH: I would like to Mr. Seligman ask the reporter to mark this multisheets which you have computer read-out on the first page as four. Referring to Sanders Exhibit Two, you tell us what that is.

(SANDERS EXHIBIT NUMBER TWO FOR IDENTIFICATION --

Computer read-out marked and entered.)

Q Do you know where that is? MR. WELSH: I would like to

A Face John Sauter have you mark this tape which bears the

Q Where did it legend Spacewar 3.1 dup. 31-August-'71

as Sanders Exhibit Three and this note later, bearing a legend phone-o-gram with the date 10-15 and the message, "John Sauter dropped off the tapes," as Exhibit Four.

(SANDERS EXHIBIT NUMBER THREE FOR IDENTIFICATION --

Tape Spacewar 3.1 dup. 31-August-71 marked and entered.) Sauter delivered here or had delivered

SANDERS EXHIBIT NUMBER FOUR FOR IDENTIFICATION --

Phone-o-gram marked and entered.) I don't know if I

(A luncheon recess was taken.)

MR. WELSH: I don't recall  
the AFTERNOON SESSION. It was the tape.

(The deposition continued with all the parties present.)

WITNESS: John Sauter brought

Q (By Mr. Welsh) Just before we recessed for lunch, Mr. Seligman, the reporter marked some of these things which you have produced as exhibits two, three and four. Referring to Exhibit Two, can you tell us what that is, please?

A It looks like a print-out of some kind.

Q Do you know where that came from?

A From John Sauter.

Q Where did it come from to be produced here today?

MR. ANDERSON: We'll stipulate,

A Yes, if you want to, Exhibit Two is the print-

Q Please do so. out that he testified about this morning.

A MR. WELSH: That John Sauter

Q What does it had -- I don't recall --

A Received October 19, 1911 MR. ANDERSON: That John

Q Did you see Sauter delivered here or had delivered you present here.

A I don't recall whether WITNESS: No I don't know if I

misunderstood you.

Q. Do you know testified about that one fed by that read-out?

MR. WELSH: I don't recall

A. I don't know about this. I think it was the tape.

Q. Were you told by anyone MR. ANDERSON: Excuse me, I

A. Yes, thought he mentioned a print-out.

Q. By whom were you told? WITNESS: John Sauter brought

A. Mr. Sauter, it up to us.

Q. (By Mr. Welsh) At the time you had the meeting at

A. the Patent Department? Was the print-out of Spacewar

A. In that time frame, earlier or later, but in that

Q. time frame, where the PDP 11 was located?

Q. Was he there more than once? ANDERSON: Objection.

A. I don't recall PDP 11?

Q. I see some handwriting in the upper right-hand corner of that first page. Do you recognize the handwriting

or know who put it there? ANDERSON: There may be

A. Yes. hundreds of thousands of PDP 11's. I

Q. Whose is it? didn't know he was referring to a specific

A. Mr. ~~Patlego~~ Etlinger

Rec  
2/23/76

Q. What does it say? MR. WELSH: He said the

A. Received October 10, 1975. 11, indicating a particular

Q. Did you see Mr. Sauter deliver that read-out? Were

you present? MR. ANDERSON: I've heard of

A. I don't recall whether I did or not.

mistranscribed *MS 2/23/76*

Q. Do you know what program is represented by that master read-out? programmed for?

A. I don't know if he did or not.

Q. Were you told by anyone?

A. Yes, less the one that is programmed that they're using.

Q. By whom were you told? said he used.

A. Mr. Sauter.

Q. What did he say it was?

A. I believe he said that was the print-out of Spacewar on the PDP 11.

Q. Did he say where the PDP 11 was located? respect to what this program is?

MR. ANDERSON: Objection.

A. Yes. He said what PDP 11? program for Spacewar for use with a Sanders display.

MR. WELSH: The one he referred to in his previous answer.

A. Yes. He said this was MR. ANDERSON: There may be PDP 11. hundreds of thousands of PDP 11's. I

Q. What do you didn't know he was referring to a specific

A. The output PDP 11. connected to the PDP 11 to display graphics from the computer.

MR. WELSH: He said the

Q. How does the particular PDP 11, indicating a particular one.

MR. ANDERSON: Object. What

MR. WELSH: output device.

MR. ANDERSON: I've heard of PDP 11 or PDP 2, and PDP 10. I think it is

Q (By Mr. Welsh) Did he indicate which PDP 11 computer this was programmed for? Positions completely.

A I don't know if he did or not. LSH: I am trying simply

Q What did he say about it? the background of this

A I guess the one that is programmed that they're using or he said used or he said he used and so forth. I

Q Here at Sanders? the question is proper. I

A I believe so.) You referred to a Sanders device

Q Did he say when he obtained the print-outs from the

A He didn't. I don't know when he obtained the print-outs

Q Did he make any other statements with respect to what

Q this program is? a device of Sanders Manufacturer?

A Yes. He said it was a program for Spacewar for use with a Sanders display. of manufacturing such

Q A PDP 11 devices?

A Yes. He said this was for a Sanders display with a PDP 11. familiar with such devices that are

Q What do you mean by "display"?

A The output device connected to the PDP 11 to display graphics from the computer. at all?

Q How does the output device display the graphics?

Q Do you know how long Mr. ANDERSON: I Object. What of manufacture output device? What graphics? There is a lack of foundation, and I think it is

outside of the scope of 30-B-6 scope or  
Notice of Depositions completely.

Q (By Mr. Welsh) What dev<sup>ice</sup> MR. WELSH: I am trying simply  
referring to to determine the background of this playing  
graphics of document which has been produced, what the  
A I think it is computer is intended for and so forth. I  
A.D.D series. thinks the question is proper, I think

Q (By Mr. Welsh) You referred to a Sanders device  
connected to the PDP 11 to display graphics from the  
A computer? overlooked at any circuit diagram or read

A Yes. manuals. It has a cathode ray tube and circuitry

Q What did you mean, device of Sanders Manufacturer?

A Yes. the internal workings of it to any great detail.

Q Is Sanders in the business of manufacturing such to do  
display devices?

A Yes. the cathode ray tube screen. not the entire device

Q Are you familiar with such devices that are  
manufactured by Sanders? the PDP 11 at the time he

A Not intimately.

Q Are you familiar with them at all?

A Yes. he say how long this program had been used on

Q Do you know how long Sanders has been in the business  
A of manufacturing such devices?

Q Did he give you any idea? MR. ANDERSON: I object. I

A. I don't think this is clearly outside of the scope of the 30-B-6 Notice.

Q. (By Mr. Welsh) What device of Sanders were you referring to as connected to the PDP 11 for displaying graphics of this program represented by Exhibit Two?

A. I think it is what we called an ADDS-500 or some ADD series. I'm sure there is a series of, I think it is 500.

Q. What does a display consist of?

A. I have never looked at any circuit diagram or read any manuals. It has a cathode ray tube and circuitry to deflect a beam, I guess, to write on it. I don't know the internal workings of it to any great detail.

Q. When you say "deflect a beam to write on it", what do you mean by it?

A. On the cathode ray tube screen.

Q. Did Mr. Sauter say whether this was a program currently being used on the PDP 11 at the time he delivered it?

A. I understood that to be the case.

Q. Did he say how long this program had been used on the PDP 11 that he referred to?

A. I don't recall.

Q. Did he give you any idea?

A. I don't recall.

Q. Did that come up in the discussion with him and Mr. Etlinger?

A. It may have. I don't recall any discussion regarding that, but it may have come up and I just don't remember it.

Q. Did he say where this program originated?

A. I believe he wrote it.

Q. Did he say when he wrote it?

A. I don't recall.

Q. Do you know how long Mr. Sauter worked for Sanders?

A. No.

Q. Do you know the circumstances under which Mr. Sauter's employment with Sanders was terminated?

MR. ANDERSON: I object only on jaggedness. What do you mean by the circumstances?

MR. WELSH: Why did he leave?

MR. ANDERSON: I object to any speculation as to what was in Mr. Sauter's mind.

Q. (By Mr. Welsh) Do you know whether Mr. Sauter was discharged or whether he left the company voluntarily?

A. Yes, he left voluntarily.

Q. I hand you now what is marked as Exhibit Three and  
ask if you would identify that, please?

A. Yes, it was brought, I think I testified earlier, that either Mr. Etlinger or his secretary received that. I believe there was a note with the specific details. *Eileen* the tape which Mr. Sauter actually left.

Q. I show you what has been marked Exhibit Four. Is that the note that was clipped to Exhibit Three? Could you identify Exhibit Four? *copies were made of the tape*

A. Yes. *That is the note* that states that Mr. Sauter dropped off Exhibit Three, the tape, on October 15th.

Q. Of this year? Exhibit Four, appears to refer to tapes

A. Yes. *local*, is that correct? *local* *local*

Q. Is that the tape about which you testified earlier?

A. Yes. You know whether any other tapes were delivered

Q. Do you recognize the handwriting on the note?

A. The initials look familiar, that was the only one.

Q. Whose initials are they? *my other punch tapes today?*

A. Mr. Etlinger's secretary.

Q. What is her name? MR. ANDERSON: We have

A. Lynn, I can't remember her last name. *tape for you this*

Q. Do you recognize the handwriting as hers?

A. No, I wouldn't be able to. *to us what that punch*

*Eileen*

Q. Does the name Elaine appear?

*misspelling* *Elaine* *positive*

*2/23/76*

A. Yes.

*Eileen*

Q. Who is Eileen, if you know? *2/23/67*

A. I assume it is the girl that would be at the reception desk downstairs in the lobby of this building. *we gave it to us.*

Q. Is that the tape which Mr. Sauter actually left, to do you know, ~~for~~ -- this time marked as Exhibit Five, and

A. I don't know. *ask the reporter to mark this second tape*

Q. Do you know whether any copies were made of the tape that Mr. Sauter left? *EXHIBIT FIVE FOR IDENTIFICATION --*

A. I don't know. *marked and entered.)*

Q. The note, *Exhibit Four*, appears to refer to tapes in plural, is that correct? *at Science Department?* *2/23/67*

A. That is what it says, yes.

Q. Do you know whether any other tapes were delivered with that one?

A. To the best of my knowledge, that was the only one.

Q. Did you bring with you any other punch tapes today?

A. Yes. *you mean by "us"?*

A. Well, I don't know who *MR. ANDERSON: We have*.

Q. *Mr. Ellingson provided one other punch tape for you this* *the time? morning.* *2/23/67*

Q. (By Mr. Welsh) Can you tell us what that punch tape is? *that?*

*part misspelling 2/23/67*

A. No. 30001

Q Do you know where it came from? +162

A. Yes. ~~are ten o'clock.~~

Q. Where did it come from?

A. Mr. Frisbee gave it to us

Q. Who was present when he **MR. WELCH** took the witness.

I have already have this tape marked as Exhibit Five, and Mr. Williams ask the reporter to mark this second tape anyone else as Exhibit Five or not.

(SANDERS EXHIBIT NUMBER FIVE FOR IDENTIFICATION --

Punch tape marked and entered.)

Q. (By Mr. Welsh) You said that Mr. Frisbee was

associated with your Computer Science Department?

A. Yes, you know why he brought the tape?

Q. You don't know whether he's head of that department or not? I think we learned that Mr. Frisbee might have

A. I don't think he is. He will be presented today.

Q. When you say Mr. Frisbee gave "us" this tape, who do you mean by "us"?

A. Well, I don't know who he actually handed it to.

Q. Mr. Etlinger and your attorneys were in the room at the time? phone call to him to see what he knew

A. I believe.

Q. When was that? (one call?)

mistranscribed 13/17k

A. This morning. <sup>as Mr. Etlinger.</sup>

Q. This morning, approximately what time?

A. Before ten o'clock.

Q. And after what hour?

A. I would say after 8:30. <sup>or end of the conversation.</sup>

Q. Who was present when he presented the tape?

A. I have already said, <sup>that</sup> I believe, Mr. Etlinger and <sup>Mr.</sup> and Mr. Williams and Mr. Anderson, and I am not sure if anyone else was in the room or not. <sup>that question?</sup>

Q. Were you there? <sup>work for Frisbee.</sup>

A. Yes. <sup>else</sup> did Mr. Etlinger say?

Q. Did anyone request him to bring that tape? <sup>or</sup> *R11  
2/23/76*

A. No. <sup>ething</sup> to that effect available or --

Q. Do you know why he brought the tape? <sup>question?</sup>

A. Yes. <sup>I think</sup> in the continuing searching for documents it was, <sup>we learned</sup> that Mr. Frisbee might have something that should be presented today.

Q. When did you learn that? <sup>located?</sup>

A. This morning.

Q. How did you learn it? <sup>ere it is located?</sup>

A. I am not sure if it was this morning or last night. <sup>located</sup> We made a phone call to him to see what he knew <sup>kind</sup> about Spacewar. <sup>at location?</sup>

Q. Who made the phone call?

A. I think it was Mr. Etlinger.

Q. Were you present? *for several times to this building.*

A. Yes, I believe so. *at this time.*

Q. What did he say? *at the time I went the tower,*

A. I couldn't hear the other end of the conversation.

Q. What did Mr. Etlinger say? *at the two additions on*

A. They were talking about, had Frisbee seen Spacewar and I guess he asked him if John Sauter worked for him.

Q. Do you know what answer he got to that question?

A. Yes, Sauter did work for Frisbee.

Q. What else did Mr. Etlinger say?

A. I think he asked him if Sanders had a PDP ~~11~~ or something to that effect? *available or not on either*

Q. Do you know the answer he got to that question? *very*

A. That we did have one.

Q. Did he ask where it was located? *er buildings?*

A. I can't recall.

Q. Do you know where it is located?

A. No. *have another one in Nashua at Cebal Street and*

Q. Have you been told where it is located? *ca and they* *R15*  
*2/23/76*

A. Yes, not definitely. *It is in with a lot of junk or*  
*it is not being used. It is a junk room of some kind.*

Q. Do you know what location? *the PDP 11 of Sanders is*

A. No. *located here in this building.*

*must transcribed* *1/23/76*

A. No, don't know.

Q. You referred earlier several times to this building.

A. What do you mean by this building?

A. Well, I think most of the time I meant the tower, the present tower structure that goes up 7 stories, and at times I may have meant the two additions on either side. I think at one time I referred to it as a separate building.

Q. Then by "this building", do you mean the actual building we are in now?

A. Yes, I think so. Ink Fitisbee told him 1969 he came to

Q. This 7-story building?

A. Yes, he maybe included the 2-story additions on either side and they're all interconnected and effectively one building.

Q. Does Sanders Associates have other buildings in the

A. Yes, in the

Q. Where are they located? now that I recall, I think he

A. They have another one in Nashua at Canal Street and

Q. they have one at Simon ~~St~~ Street in Nashua and they

A. have one in Merrimack, New Hampshire. They have buildings in Manchester, New Hampshire.

Q. So you don't know whether the PDP 11 of Sanders is located here in this building?

*RIS  
2/23/76*

*RIS  
2/23/76*

*misspelled 2/23/76*

A. I don't know.

Q. Do you know who would know?

A. Mr. Frisbee.

Q. Did Mr. Etlinger say or ask anything else in this conversation with Mr. Frisbee last night?

A. They discussed when Sauter worked here.

Q. You meant how long he worked here?

A. Yes, was that?

Q. Do you know what the answer or what period of time came out of that discussion?

A. Let's see. I think Frisbee told him 1969 he came to work at Sanders facility.

Q. Did he say whether Sauter worked for him that whole time?

A. Yes, he said that he did.

Q. What else was said or asked by Mr. Etlinger in the conversation?

A. Specifically, I don't know that I recall. I think he did ask a little history of the PDP 11 at Sanders.

Q. Did he say what he was told in that regard?

A. Yes. I think Frisbee said that he thought it came here about 1970.

Q. Did he state where it came from?

A. I think he said he thought it came from another place.

R15  
2/23/76

mistranscribed (1/23/76)

location. tape or Mr. Frisbee.

Q. Of Sanders? *or were trying to ascertain where the*

A. Yes. *He was trying to ascertain where the*

Q. Did Mr. Etlinger ask or say anything else during his conversation with Mr. Frisbee? *time that it had been*

A. Yes. *I think they discussed another Sanders employee* who was in the computer group.

Q. Who was that? *to Mr. Etlinger.*

A. Mr. Mairson.

Q. What was said about Mr. Mairson? *about him?*

A. That he had headed up some computer group at our Bedford facility. *7/15/82*

Q. What did he have to do with the discussion regarding Spacewar? *in his computer group?*

MR. ANDERSON: I object. I

think we're getting off the track of the 30-B-6 Notice of Depositions. *7/15/82*

MR. WELSH: I'm still trying

*to find out -- this tape apparently came from Mr. Frisbee and trying to find out the circumstances surrounding its coming.*

MR. ANDERSON: I continue my

*objection. I don't think this line of questioning is directed to either the*

*mistakened - 7/15/82*

tape or Mr. Frisbee.

A. I think they were trying to ascertain where the PDP 11 was prior to coming to this facility, this building.

Q. (By Mr. Welsh) Did they determine that it had been in Bedford?

A. Did they?

Q. Mr. Frisbee and Mr. Etlinger.

A. Eventually.

Q. What did Mr. Mairson have to do with that?

A. His group or he bought a PDP ~~11~~ at Bedford.

2/23/74  
P15

Q. Mr. Mairson's group? Is he no Sanders facility evaluation

A. Yes.

Q. From whom in Bedford did they buy it? ~~as we still own~~

Q. ~~the facility~~ MR. ANDERSON: I object. I

A. I don't think that the testimony was that they

Mr. Mairson bought it from somebody at Bedford.

~~the fact is~~ Bedford group bought it from somebody.

Q. (By Mr. Welsh) I'm sorry. Mr. Mairson is located at Bedford? ~~now~~ that's where he worked.

A. Was ~~Sanders~~?

Q. Where is he now?

A. Here, this facility.

Q. What is his first name?

mistranscribed 2/23/74

A. Ted.

MR. ANDERSON: If you know.

Q. What is located at Bedford, where the PDP ~~11~~ came from? R15  
2/27/76

A. It is a Sanders building which we're no longer using. R15  
2/27/76

Q. It is another Sanders building?

A. Yes. date came out?

Q. Other than the ones that were mentioned?

A. Yes. I think we still own it. I am not sure.

Q. It is at Bedford, Mass.? R15  
2/27/76

A. Yes.

MR. ANDERSON: I object to

I object to that. I do. MR. ANDERSON: To expedite it.

Q. (By Mr. Welsh) things for clarity, it is my understanding

A. I believe we that there is no Sanders facility operating  
it now in Bedford, if that will help, and

Q. (By this time Mr. Seligman said he thinks we still own  
this building the facility or something to that effect.

Q. (By Mr. Welsh) I still don't understand. You say

Q. Mr. Mairson headed up a computer group that purchased  
the PDP ~~11~~ at Bedford? R15  
2/27/76

A. No. He purchased it while he was at Bedford. That

Q. was his office. That's where he worked. an operating

Q. For Sanders? Bedford facility?

A. Yes, for Sanders. years. I don't recall the exact

Q. When was that?

A. Let's see -- what group was there when it was operating.

*mis-transcribed 2/27/76*

as a Sanders facility? MR. ANDERSON: If you know.

A. I just can't recall the date. Our PUSE people.

Q. (By Mr. Welsh) That didn't come out in the discussion?

A. Yes, it did. last night, what else was said or asked?

Q. What date came out? that particularly comes to mind.

A. I can't recall it. I think they discussed who he had

Q. I believe you stated earlier that the PDP Mr. Sauter  
came to Sanders about 1970.

Q. What was he told? MR. ANDERSON: I object to

A. Mr. Lencire, that. I don't think that is what he said.

Q. (By Mr. Welsh) Could you correct my statement then?

A. I believe we were told by Mr. Frisbee that he thought

Q. it came to this facility around 1970. I stand by that.

Q. By this facility, you mean the one here in Nashua,

A. this building? said that he worked for Mr. Lencire at

A. Yes. time, but I think he also worked for

Q. Do you know how long Mr. Mairson has been here at this  
facility? all at. I think when he came to work here.

A. No. worked for Mr. Lencire and later worked for

Q. Do you know how long there has not been an operating  
group at the Bedford facility? Mr. Frisbee is a part

A. It has been a few years. I don't recall the exact  
amount of time. think so.

Q. Do you know what group was there when it was operating

as a Sanders facility? Countermeasures Division?

A. Primarily our radar people, our FUSE people.

Q. Referring again to Mr. Etlinger's conversation with Mr. Frisbee last night, what else was said or asked?

A. There was nothing that particularly comes to mind.

A. Let me think. I think they discussed who he had

Q. worked for when he came to work here, who Mr. Sauter worked for, I guess.

Q. What was he told?

A. Mr. Lemire said about punch tapes for Spacewar?

Q. And what group was he with?

A. I don't know. I asked Mr. Frisbee to make a search for

Q. I may be wrong but I thought I understood before that you said Mr. Sauter worked for Mr. Frisbee.

A. I think that I said that he worked for Mr. Frisbee at some time, but I think before he worked for

A. Mr. Frisbee, he worked for Mr. Lemire. That is the way I recall it. I think when he came to work here, he worked for Mr. Lemire and later worked for

Q. Mr. Frisbee. Frisbee answer?

Q. Is the computer group of which Mr. Frisbee is a part in the Electronic Countermeasures Division?

A. No. I don't think so.

Q. How about that group that was at Bedford? Was that

A a part of an Electronic Countermeasures Division?

A No. he later produced something?

Q In the discussions with Mr. Etlinger with Mr. Frisbee, was it indicated how long Mr. Sauter worked for Mr. Lemire?

A I don't believe so. If it was, I don't recall.

Q Was anything else said or asked by Mr. Etlinger during the conversation with Mr. Frisbee last night?

A I don't recall anything.

Q Was anything said about punch tapes for Spacewar?

A I don't recall. I was looking and he quickly found this

Q Did Mr. Etlinger ask Mr. Frisbee to make a search for any documents or things such as punch tapes relating to Spacewar?

A Yes. he say where he found it?

Q What did Mr. Etlinger say? (I referred to earlier.)

A If he had any, I am not -- I believe he said if he had any records or documents about Spacewar, I don't know the details of what he said but -- I didn't hear him.

Q What did Mr. Frisbee answer?

Q Did he say where he found MR. ANDERSON: (I object.) The

A with the PIP witness has testified he only heard one

Q Did he start end of the conversation. with the part in 4/8/76

Q (By Mr. Welsh) Were you told?

transcribed 4/8/76

A. I guess he said he would look for the thing. ask or

Q. Did he later produce something? like that and I didn't

A. Yes. <sup>much attention to exactly where on the PDP 11 or 2/23/76</sup>

Q. What did he produce? it, but it was with the PDP 11. <sup>2/23/76</sup>

A. Exhibit Five. <sup>2/23/76</sup> the tape happened to get there?

Q. I believe you were present when he produced that?

A. Yes. <sup>he state how he identified it as the Spacewar</sup>

Q. That was this morning? <sup>alpha numerics</sup>

A. Yes. <sup>think he read the punched out alpha numerics.</sup> <sup>2/23/76</sup>

Q. What did he say when he produced it?

A. Well, <sup>that he went looking and he quickly found this</sup> tape.

Q. Did he describe what it was? <sup>2/23/76</sup>

A. He identified it as Spacewar. <sup>2/23/76</sup>

Q. Did he say where he found it? <sup>2/23/76</sup>

A. Yes, in his junk room, which I referred to earlier. <sup>2/23/76</sup>

Q. Where the PDP 11 is now located? <sup>2/23/76</sup>

A. Yes, where he said it was located.

Q. Did he say whether that was in this building or not? <sup>2/23/76</sup>

A. I don't recall. delivered the tape?

Q. Did he say where he found it in the junk room? <sup>2/23/76</sup>

A. With the PDP 11. <sup>2/23/76</sup> referred that he didn't.

Q. Did he state how it was associated with the PDP 11 in <sup>2/23/76</sup> the junk room?

mistranscribed <sup>2/23/76</sup>  
2/23/76

A. I think he said there were some tapes on a desk or  
on the top of it or something like that and I didn't  
pay much attention to exactly where on the PDP 11 or *2/26/76*  
exactly how close to it, but it was with the PDP 11. *2/26/76*

Q. Did he say how the tape happened to get there?  
*2/26/76*

A. No. ~~interrogatories~~ that had been asked of Sanders in  
Q. Did he state how he identified it as the Spacewar the  
tape? ~~invention~~ ~~of documents~~, you stated that on the  
A. I think he read the punched out ~~alphphanumeric~~ *2/26/76*  
*alphanumerics* ~~alphanumeric~~ *2/26/76*

Q. Did you read those?  
A. I read one of them. I can't recall if I read this  
one. ~~oratory notebooks~~ of others and you named a  
Q. Could you take the rubber band off and read it to us?  
A. Spacewar 3.1 copy 9 Fe-- after the Fe something 8,  
Q. I don't know, I can't make out -- Feb. 68.  
Q. So it reads Spacewar 3.1, copy 9, February '68, is  
Q. that correct?  
A. Yes. ~~found here?~~

Q. Did Mr. Frisbee say anything else about Spacewar this  
morning when he delivered the tape?  
A. I think, I believe he'd been asked if he played it and  
Q. I think he answered that he didn't.  
Q. That he hadn't?  
A. That he hadn't. ~~any work I believe done at all on it.~~  
A. ~~That he played here?~~

*mistranscribed 2/23/76*

Q. You were there, were you not?

A. Yes, but I am not sure. I was in and out while some of this talking was going on. Mr. Batchelder?

Q. Now returning to the places where you stated that you had searched in response first, to the earliest Interrogatories that had been asked of Sanders in the this case and later, when there was a request for the production of documents, you stated that another possible place, that is, in addition to the Patentians Department files, the files of the inventors and the Independent Research Office, that you considered should laboratory notebooks of others and you named a Mr. David Batchelder? Books, is that correct?

A. That is correct.

Q. Did you actually examine the notebooks? Books relating A. Yes his work in connection with the subject matter of

Q. Did you include those among the documents that are produced here? He kept a notebook, if he kept notes of

A. No. kind and he wasn't sure. He thought he put

Q. Why did you exclude that? Book but he didn't have the

A. Because there's nothing pertinent in the notebooks. I

Q. They contain no reference -- storage area where we

A. No reference to any work I believe done at all on it.

Q. Is he still employed here?

A. Yes. He had left it some period of time and then come

Q. Is there a practice with respect to the keeping of

Q. notebooks by such persons as Mr. Batchelder? Are?

A. Practice?

Q. Yes. You ask him if he had kept any personal notes?

A. I believe so. - - - - - MR. ANDERSON: I object to the

Q. What did he question. The question is vague and

A. I don't believe ambiguous. any information. He said if

Q. (By Mr. Welsh), Is there a requirement for technicians

Q. to maintain notebooks? of the Notices of Deposition,

A. There is a general policy that technical people should

maintain notebooks. the time the subpoena was served?

Q. He did have some notebooks, is that correct? Do

A. Yes. - - - - - you mean the 30-2-5 Notice? - - - - -

Q. Did you ask him why he did not have notebooks relating

Q. to his work in connection with the subject matter of

the patent in suit? or not.

A. I asked him if he kept a notebook, if he kept notes of

some kind and he wasn't sure. He thought he put

something down in his notebook but he didn't have the

notebook anymore, because he had left the company. I

ordered his notebook from our storage area where we

store the notebooks and looked at them myself.

Q. You say he left the company? that had not been pointed

A. Yes. He had left it some period of time and then come back again and for you.

Q. I see, but his notebooks had been retained here?

A. Yes, or than what?

Q. Did you ask him if he had kept any personal notes?

A. I believe so produced the last time for us?

Q. What did he reply?

MR. ANDERSON: I object. I

A. I don't believe he had any information. He said if he had anything, it would be in the notebooks.

Q. Were you given copies of the Notices of Deposition, that is, were copies available at your Patent Department prior to the time the subpoena was served?

MR. ANDERSON: I object. Do you mean the 30-B-6 Notice? Requests were served and a

MR. WELSH: Yes, a request was

A. We were given copies of some depositions. I can't say if it was the 30-B-6 or not.

MR. ANDERSON: And he testified

Q. (By Mr. Welsh) Was it a deposition of Sanders Associates? from time to time.

A. I can't say that. My best recollection is that it was of individuals rather than of Sanders Associates.

Q. When you received the subpoena, did you, or were you given the task of making any further investigation?

A. Yes, we pulled together files that had not been pulled

out, that had been generated the last time documents were produced for you. knowledge of this, to find out

Q. Did you search for any other documents? A. searched is

A. Other than what? I could think of that would have anyone

Q. Other than just the files generated since the training documents produced the last time for us?

Q. Do you know who were the MR. ANDERSON: I object? I

A. I can't rec... think it is vague and ambiguous, your who made the question? He has testified to multiple I think possible searches that he made over the period I made some since the suit has been pending. the time it was just we thought MR. WELSH: I didn't understand was available the testimony that way. I thought he made with respect one when the earliest Interrogatories were actually reserved and another one when a request was I reviewed the made for documents.

Q. Do you know whether Mr. MR. ANDERSON: And he testified information, this morning that he made various searches A. I asked him from time to time. if any, he had, and he

Q. (By Mr. Welsh) Were any other possible places of and searching considered other than the four you mentioned?

A. Well, the latest searching on behalf of what Frisbee was doing for us to come up with this and I believe that, you know, some telephone calls were made to

various people within the company that may have had very loose, some minor knowledge of this, to find out if they had any information, but what we searched is every place we could think of that would have anyone who would know or have kept any documents pertaining to these T.V. games.

Q. Do you know who were the people who were called?

A. I can't recall.

Q. Who made the calls to the people?

A. I think possibly Ralph Baer made some and possibly I made some and I don't really remember. At the time it was just we thought we really had everything that was available in the company on this subject.

Q. With respect to Mr. Batchelder's notebooks, did you actually review them yourself?

A. I reviewed them.

Q. Do you know whether Mr. Batchelder looked for

information, also?

A. I asked him what information, if any, he had, and he said, "If I have any, it would be in my notebooks," and I got the notebooks as I have testified and there was no information.

Q. In your discussions as to where you might look for documents requested, did you consider any group of

Sanders dealing with training devices?

A. I would say no.

Q. How about Sanders graphic displays for computer terminals?

A. I personally do not recall looking into that area.

Q. Did it come up in the discussions as to a possible place to look?

A. I don't recall.

Q. These were discussions that you had with Mr. Baer, I believe?

A. Yes.

Q. Did you also include Mr. Etlinger?

A. I am sure at times.

Q. So neither the graphic displays of Sanders nor training devices were considered in those discussions?

A. Not that I can recall. I didn't look into it and I don't remember if Mr. Baer did or did not.

Q. Referring now to the attachment A which was part of a subpoena, on the deposition notices, under what category were these items which have been introduced as Exhibits Two, Three, Four and Five produced?

MR. ANDERSON: I will speak documents or to that, Mr. Welsh, I guess, seeing we have provided them. I believe that two of

them, the tapes, Exhibits Three and Five, were produced because they bore a punched disha which we presumed was a date and, therefore, concluded that they should be 11, produced as they might fall under ~~under~~ of paragraph 30 of your request. With respect to the print-out, Exhibit Two, I believe that we had produced that not believing that it came under any paragraph of your request, but believing that, in that view of Mr. Sauter's production of that and Exhibit Three or delivery of Exhibits Two and Three together on about October 15, 1975 and because it related to Spacewar, we have included it, and it does not bear a date within the range that you asked for.

ORGANIZED BY MR. WELSH: But it is related to Rule 30-B-6, I take it.

MR. ANDERSON: It certainly ~~you~~ might be.

Q. (By Mr. Welsh) Now referring to attachment A to the subpoena on the deposition notices, did you bring documents or things as defined in paragraph one?

MR. ANDERSON: I might say, as

you start the various procedure, we responded to your request for production of documents in a document filed in the Northern District of Illinois on August 11, 1975, and that request for production of documents is, I believe, verbatim like to reproduced in the notice of depositions on which Mr. Seligman is answering on, it behalf of Sanders Associates, Inc. In that response we specifically stated that we had not attempted to break down the

Q (By Mr. Welsh) documents paragraph by paragraph but stated Mr. Seligman to the contrary "some of the paragraphs assignment of requests are overlapping and more than said patent one paragraph may request production of the negotiations same documents". Therefore, we have not

A. Yes. organized them, as you know from inspecting,

Q Were those on a category by category basis.

A. Regarding production of MR. HERBERT: You say that you that I gathered <sup>had</sup> filed a response in Chicago? He's the one

A. that produced them in <sup>re</sup> MR. ANDERSON: Yes. I

gathered them August 11, 1975.

Q What documents did you MR. HERBERT: That is the assignment. response?

*systematic*

359  
A. Assignment is generated MR. ANDERSON: <sup>at</sup> Yes, inventors  
of each of the patents. MR. HERBERT: Do you by any  
Q. Aren't assignee chance have a copy of that? Office?  
A. Yes, in the application MR. ANDERSON: You can peruse  
it. MR. ANDERSON: Is there any  
way we can get MR. HERBERT: I would like to  
see it. to prove about the assignments  
by stipulation MR. ANDERSON: I am sorry, it  
has some notes on that that I can't even  
read. (They're Mr. Williams' notes.  
(Discussion off the record.) to ask if

56 Q. (By Mr. Welsh) In your investigation and searching,  
Mr. Seligman, did you find documents relating to the  
assignment of rights in the alleged inventions of  
said patents from the named inventors and/or if they  
negotiations relating thereto? response to paragraph

A. Yes. one? They were certainly selected in  
Q. Were those produced? to the obligation of the inventors  
A. Regarding production of documents, all the documents  
that I gathered I gave to Mr. Williams. He's the one  
A. that produced them in response to the request. I  
gathered them all. sign when they come to work here.  
Q. What documents did you find relating to the  
A. assignment of rights?

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62 A. Assignment is generated by the particular inventors  
A. of each of the patents in question. Baer,  
59 Q. Aren't assignments filed in the Patent Office?  
A. Yes, in the application files. WELSH: I would like the  
reporter to MR. ANDERSON: Is there any  
way we can short-cut whatever you're even,  
trying to prove about the assignments  
by stipulation? comment of Mr. Harrison.

MR. WELSH: I am not worried  
about the assignments, but trying to get  
to the others. I was going to ask if  
there were other documents that were  
selected in response to this paragraph  
in the record unless the witness  
testifies for WITNESS: I can't say if they  
were selected in response to paragraph the  
one. They were certainly selected in  
response to the obligation of the inventors  
to assign inventions to Sanders.

Q. And what documents are those? ANDERSON: I don't see  
A. There are patent agreements which employees of  
Sanders normally sign when they come to work here.  
Q. Did you obtain these documents to be produced here?  
A. I believe so. Agreements that you have from the

2 Q What documents do you have specifically? s, Inc.

A Patent agreements of Mr. Rusch, Mr. Baer, we examine Mr. Harrison. the individual inventors, we're not sure of the posit MR. WELSH: er I would like the reporter to mark these as Exhibit Six, the agreement of Mr. Baer, Exhibit Seven, the agreement of Mr. Rusch and Exhibit Eight, the agreement of Mr. Harrison.

(SANDERS EXHIBITS NUMBER MR. ANDERSON: A I object to Assignments identifying. Let's have the witness

Q (By Mr. Welsh) testify further about them. I see no ch you found of relevance or materiality at all to the assignments documents and no reason to make them a part of the record unless the witness of said patents testifies further about them. or negotiations relating to them. MR. WELSH: I expect to ask the

A Not that I re individual inventors about them and thought

Q Did you find it would be appropriate to mark them at the licensin this time. by the inventor or either

plaintiff of rights in them. MR. ANDERSON: I don't see said patent any relevance to them or why you would

A A number of ask the inventors about them unless there

Q I wonder if is a challenge of the propriety of the identify those assignments that you have from the

inventor to Sanders Associates, Inc. some files relating to the individual inventors, we're not sure of the position on ownership. (Discussion off the record.)

Mr. Williams: MR. WELSH: At this time I would like to go ahead and have these marked as exhibits. the Interrogatory request

(SANDERS EXHIBITS NUMBERED SIX, SEVEN AND EIGHT)

Assignments marked and entered.)

Q. (By Mr. Welsh) Were there any other documents which you found other than these patent agreements and the assignments there in the application files relating to the assignment of rights in the alleged inventions of said patents from the named inventors and/or drafts of negotiations relating thereto? Magruder and Sanders

A. Not that I recall.

Q. Did you find and produce any documents relating to the licensing or sale by the inventor or either the plaintiff of rights in the alleged inventions of said patent and/or negotiations relating thereto?

A. A number of documents, I guess, as to what has been

Q. I wonder if we could obtain those and ask you to identify those for the record?

That we have. MR. ANDERSON: Here are some files relating to negotiations of correct, licenses and our general Magnavox file.

The Magnavox file you have a copy of; we have not brought the original down here.

Mr. Williams points out that you have been provided with all of the documents in its response to the interrogatory requesting out of the Magnavox file, unless they were identified as privileged. morning, and have the MR. WELSH: So I was led to we believe this morning, when certain files had been marked to indicate confidentiality, that certain portions of the files had not been produced, specifically the drafts of agreements between Magnavox and Sanders Associates. MR. WILLIAMS: They're our Magnavox com

MR. ANDERSON: That is correct.

In addition to the Magnavox file, we have the confidential files here in the room.

because I, at MR. WELSH: I am just a little confused, I guess, as to what has been produced and what hasn't, because I was told there were certain Magnavox files

that we hadn't received. for 1973, some  
for 1974 and MR. ANDERSON: That is correct,  
and I told you this morning you have  
received the original executed, or you have  
seen the original executed Sanders-  
Magnavox agreement and relevant documents  
from that file that did not include drafts  
or royalty reports and documents relating  
to royalty reports, those documents we have  
have produced in the room this morning,  
and have them in the room. The file we  
showed you previously, you have ordered  
copies of appropriate documents and that's  
why we don't have that file in the room  
at this time.

(Discussion off the record.)

MR. WILLIAMS: They're our  
Magnavox correspondence files.

MR. WELSH: Are these in  
separate files which can be identified,  
because I, at this point -- you're talking  
about one and apparently --

MR. WILLIAMS: That's what I  
started out to do. They're our Magnavox

correspondence files, one for 1973, one for 1974 and one for 1975. Copies of those files were sent to Chicago last June, I think it was preparatory to some depositions taken by Seeburg and produced and removed the documents responsive to the Seeburg request and used all of those. We produced all of those at the request of Mr. Goldenberg and he saw those and you have seen those. We, in response to your request, we went through this file again and picked out any documents that were responsive to your request which had not previously been produced for Mr. Goldenberg, and you have seen everything responsive to your request which was in the Magnavox correspondence file.

MR. ANDERSON: And no complaints from the other side.

MR. WELSH: But they're not here.

MR. WILLIAMS: We talked about this briefly yesterday. I think they're in the building and if you need the originals of any of those documents, we can produce them.

MR. WILLIAMS: Sand re' files

relating to MR. HERBERT: I want the record

to be clear, Mr. Williams, that you're referring to Mr. Welsh and Mr. Katz. We have not seen any of the documents that I am aware of.

MR. ANDERSON: Mr. Herbert, as I mentioned during the break, we would be happy to make copies of those available to you in Chicago at any time.

MR. HERBERT: There are copies in Chicago?

MR. ANDERSON: Yes.

MR. HERBERT: Are you aware whether the copies you have in Chicago are sufficiently legible?

MR. WILLIAMS: We haven't had any trouble with them.

MR. ANDERSON: And no complaints from the other side that I know of on those.

MR. KATZ: These are Magnavox documents that you're talking about, the correspondence files?

MR. WILLIAMS: Sanders' files relating to correspondence with the

Magnavox Company.

MR. KATZ: Do you recall, Mr. Williams, when you furnished us with, I believe you said, copies of those documents, copies of certain of those documents in the Sanders Magnavox correspondence files 1973, '74 and '75?

MR. WILLIAMS: You were given access to the copies of the documents.

MR. WELSH: Which you had checked out of the file?

MR. WILLIAMS: As responsive to you at the time, to your Interrogatories, and you looked at those, I believe, in July.

MR. WELSH: That was my recollection, too, and that is what I just wanted to confirm, because I don't recall that we had been furnished anything additional in that regard so far as our present request is concerned.

MR. KATZ: Except that, first of all, the copies which you furnished in July, did they not contain expunged

portions? MR. KATZ: August inspection

was mainly: MR. WILLIAMS: I am sure that they did. We had no protective order in July and there were documents which had material expunged from them when we produced them.

MR. WELSH: So that we have not seen the originals of the documents of which you furnished copies, and you made your selection of the documents which you furnished to us on the basis of our present original Interrogatories.

MR. WILLIAMS: There was another production in August, I believe, and it was in response to this Midway document request which was primarily which included additional documents, also.

MR. KATZ: They didn't include the original documents from the July inspection. We never saw the originals.

The document MR. WILLIAMS: We did not copies reproduce any documents, because you looked at the July documents and you had ordered copies. I quoted and I said I was

RECORDING: MR. KATZ: An August inspection was mainly Magnavox. That was the inspection at which time there was a film produced; I think I mentioned that to Ted and I was in to make that inspection. Do you recall? MR. WILLIAMS: At the time, yesterday, MR. ANDERSON: I recall you coming in. I recall that there had been some material ex- MR. KATZ: Was that the that inspection you're talking about?

MR. WILLIAMS: I was not present then. protective order, yes.

MR. ANDERSON: We made those available to you. ~~and to see those.~~

MR. WILLIAMS: They may have been primarily Magnavox, but there were some Sanders documents, also. ~~at~~

MR. KATZ: I thought it was entirely Magnavox, so what Don said was correct, that we never saw the originals. The documents that were produced, the copies of which were produced in July. ~~copy copies~~

and ~~so~~ I. MR. WILLIAMS: That's right, and you just requested and I said I was

separating the originals, and you said you didn't need to see them unless you were having trouble with the copies, and we haven't produced the originals this morning.

MR. WELSH: At the time, yesterday, when I said that, I guess I didn't recall that there had been some material expunged. Do I understand that the originals are available now?

MR. WILLIAMS: Yes, subject to the protective order, yes.

MR. WELSH: I think we definitely will want to see those.

MR. WILLIAMS: Any additional documents?

MR. WELSH: I can't say at this time, if the documents respond to our request.

MR. ANDERSON: It would be somewhat of a task to go through and pull them all. If you have satisfactory copies and don't need them, I think it should suffice.

MR. WELSH: If something is only expunged ~~of~~ that kind are not ongoing and have to have. MR. HERBERT: Let me suggestion that when you go to Chicago, you bring your copies that do not have the things ~~time~~ crossed out. the 30 days for the requirement of documents. MR. ANDERSON: ~~so~~ I think our copies are the same, but I am not sure. I think we can assemble the originals of those documents by some time tomorrow, maybe first thing in the morning, but at least sometime tomorrow. there is a question; by MR. WELSH: Okay. Up to what date as of this time? ~~hope~~ go forward.

MR. WILLIAMS: I guess I don't agree with that necessarily.

MR. WELSH: In accordance with the Notice.

MR. ANDERSON: No later than the day of the Notice, certainly.

MR. WELSH: I presume the Notice was to bring requests to produce ~~and~~ at the deposition, the documents, not documents as of the date of the Notice.

A. Other than the Magnavox MR. ANDERSON: Well, certainly files regarding requests of that kind are not ongoing and with other clients have to have a cutoff date. On the question

Q. Could you tell of the proper cutoff date, I don't want to

A. All right. get involved in that, and under that Notice negotiations didn't have the 30 days for the requirement

Q. That is a fact of documents and not necessarily standing

A. Yes. on that, and will bring in tomorrow what

Q. Would you go we can.

A. With respect to what? MR. WELSH: If you bring them,

Q. Identifying there won't be a question. If you're not

A. You want to going to bring them, then there is a

question; but, if you're going to bring to them, then we can perhaps go forward.

Q. Any additional MR. ANDERSON: We'll produce tomorrow morning or sometime tomorrow.

as best we can in accordance with your request right away, as long as he's on R.C.A.,

and, MR. WELSH: All right. the

Q. (By Mr. Welsh) Now, Mr. Seligman, what documents do you have relating to this licensing or sale by the inventors or either Plaintiff of rights in the alleged

A. inventions, of patents and/or negotiations related thereto? held with R.C.A.

A. Other than the Magnavox document file, I have various files regarding licensing attempts or negotiations with other corporations. a rubber band?

Q. Could you take them individually and identify them?

A. All right. The top one is a file regarding negotiations which we held with R.C.A. those to bring

Q. That is, a folder with a paper attached to it?

A. Yes. e are a part of our R.C.A. negotiation files.

Q. Would you go on? same place as the folder marked

A. With respect to what? just described earlier?

Q. Identifying the different files.

A. You want to take them one at a time? ed in another folder. Does that have MR. ANDERSON: st With respect to

A. it is identi R.C.A., It might point out there is an "licensees" additional collection of confidential

Q. Were you read documents relating to the R.C.A. situation. affixed to t If you want to have the witness identify

A. Yes, the bro those right away, as long as he's on R.C.A.,

Q. Give that R.C and, Mr. Seligman, the contents of the id you find it documents we consider to be confidential, device, but you can identify them to Mr. Welsh for

A. I believe what the record to show what was produced.

A. These are further documents concerning the negotiations that were held with R.C.A.

Q (By Mr. Welsh) Could we describe that as a group of sets of attached sheets of documents plus two blank folders all connected by a rubber band?

A. That is a fair description.

MR. ANDERSON: That is apt.

Q (By Mr. Welsh) Where did you obtain those to bring them here?

A. Those are a part of our R.C.A. negotiation files.

Q. Were they in the same place as the folder marked "R.C.A." and which you just described earlier?

A. I believe so.

Q. The folder itself appears to be located in another folder. Does that have any identification?

A. It is identified as "T.V. gaming device, potential licensees" and bearing number 300.

Q. Were you reading that identification from a label affixed to the folder?

A. Yes, the brown folder, yes.

Q. Did that R.C.A. folder, when you brought it here, did you find it in that outside folder with T.V. gaming device, number 300, potential licensees?

A. I believe when we first were looking for documents, they were all found. These documents were all found together in this folder.

77 Q. And was there included with those documents, also, or  
A. this other group of documents?

8 Q. Where was that folder, the "T.V. gaming device, 300,  
A. potential licensees" located?

9 Q. Do you have any doubt about that?

Q. Do you have any?

A. I believe in the files of the Patent Department.

Q. Do you have any doubt about that?

A. Not much.

Q. Do you have any?

A. I believe in the files of the Patent Department.

Q. Do you have any doubt about that?

A. I don't remember exactly pulling this file out of  
the file, whether I did it or any secretary did it,  
but I am sure it must have been in the Patent  
Department files. These are our files.

Q. Are licensing matters handled by the Patent Department?

A. Department?

A. Yes.

Q. Under Mr. Etlinger's direction?

A. Yes.

Q. Does the number 300 have a significance?

A. I assume it is our file number.

Q. Other than the R.C.A. documents which have been  
A. identified, were there any other documents in that  
folder?

A. I have a Manila folder here.

5 Q Is there any identifying mark on that Manila folder?

4 A Nothing. It has a number of loose papers, including  
1 a list of persons and companies and a number of  
A Dun and Bradstreet reports and other credit reports  
9 of companies it contains.

5 Q Do you know who placed those documents in that folder?

4 A No, I don't. <sup>thereat</sup> R15  
A <sup>2/23/76</sup> agreement and a copy ~~concerning~~, and some

9 Q Is that entire file "T.V. and gaming devices" under the  
control of Mr. Etlinger? They would sign a Proprietary

A Yes, under his supervision anyway; they're not interested

Q Has that been the case ever since you've been  
P associated with that Patent Department? <sup>ting on</sup>

A Yes, he has been the supervisor of that department.

Q You don't know specifically who placed these documents?

A It could have been any one of a number of attorneys  
A or secretaries.

Q You stated there was a list of companies in that  
unmarked folder? <sup>ing devices, number 360?</sup>

A A list of names and companies. "Warwick" containing an

Q Do you know who prepared that list? <sup>and correspondence</sup>

A No, I don't. <sup>Warwick and Sanders.</sup>

Q Do you know who would know? <sup>the party acting for Sanders?</sup>

A Possibly Mr. Etlinger.

Q Anybody else? <sup>15</sup>

*unmarked folder*

A. I don't believe anybody else would know. company.

Q. Were there any other folders in that file, "T.V. gaming device, 300"? labeled "Sony", again containing

A. A Manila folder labeled "Westinghouse Electric".

Q. What does that contain?

A. It contains a couple of draft agreements or maybe one draft agreement and a "copy ~~offering~~ thereof", and some letters offering to demonstrate the gaming device to Westinghouse provided they would sign a Proprietary Agreement and also a letter that they're not interested in pursuing it. The next folder is like the others,

Q. Was that correspondence with someone acting on ~~use~~ Sanders' behalf? Electric and Sanders, also agreements

A. Yes. signed by other companies who, I guess, were

Q. Who was that? sultation to General Electric in this

A. Mr. Etlinger.

Q. Are there any other folders or files in that folder marked "T.V. gaming devices, F number 300"? This one

A. Another Manila folder labeled "Warwick", containing an agreement, Proprietary Agreement and correspondence between Warwick and Sanders.

Q. Was Mr. Etlinger, again, the party acting for Sanders?

A. Yes, he was.

Q. Who is Warwick? ntifying, labeled G.E., we have

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A. Warwick is an electronics manufacturing company.

Q. Were there any other folders in that folder?

A. Another Manila folder labeled "Sony", again containing draft agreements and correspondence between Sanders and Sony, by Mr. Etlinger.

Q. Any other files in there? MR. ANDERSON: That's correct.

A. The next one is "Motorola", containing, again, agreements and correspondence between Motorola and Sanders.

Q. (Welsh) Would you identify other files in

Q. Who was acting on behalf of Sanders?

A. Mr. Etlinger. The next folder is like the others, an agreement and correspondence, and in this case between General Electric and Sanders, also agreements assigned by other companies who, I guess, were providing consultation to General Electric in this matter. of a visitor's pass, indicating who care to

Q. What companies were those?

A. Let's see. Burke Marketing Research, Inc. This one is between General Electric and Analytical Research, Inc. Those are the only other agreements I see in this file. I can't see any others. I may be wrong in this. I don't know. MR. ANDERSON: Mr. Welsh, from

Q. Could it be in this file that Mr. Seligman has been

A. He would be identifying, labeled G.E., we have

to see him and removed a collection of documents that we consider to be of a confidential nature.

MR. WELSH: Again, if I

Q. Are these any understand correctly, they were taken from

A. The next one the files that he just described?

MR. ANDERSON: That's correct.

from Sanders You may look at them.

(Discussion off the record.)

Q. (By Mr. Welsh) Would you identify other files in that folder?

and correspondence or letters signed by

A. Yes. The next file is a Manila file labeled "Zenith"

and also containing agreements between Zenith and

Sanders and some correspondence between Zenith and

Sanders by Louis Etlinger. This file, and maybe some

of the others, I haven't commented before, but contain

a copy of a visitor's pass, indicating who came to

Sanders.

Q. Is that a practice of your department, to keep copies

of passes issued to visitors to your department?

A. It is a practice to receive them. Unfortunately, we

don't retain them too often. Maybe I am wrong in

that. I don't know.

Q. Would Mr. Etlinger know?

A. He would know more than I. Most of the visitors were

to see him and not me. The next one is a Manila folder labeled "Welwyn Electric" and a copy of an agreement.

Q. Are there any other files in the folder?

A. The next one is a Manila folder labeled "Philco-Ford" containing two copies of an agreement and a letter from Sanders Associates by Mr. Etlinger to Philco Company-Ford. The next item in this group is a Manila folder labeled "Sylvania". It contains an agreement and correspondence or letters signed by Mr. Etlinger to Sylvania, but it is my best guess

Q. Are there any other files in that folder?

A. No, ~~you believe that it is~~

Q. Other than the files in that folder and the portions which have been removed and are being treated as confidential under the protective order, did you find any other files relating to licensing or sale by the inventors or either Plaintiff of rights in the alleged inventions of said patent and/or negotiations relating thereto?

A. No. Everything I pulled out was given to Mr. Williams.

Q. Do you have anything else?

A. There is another Manila folder labeled "C.A.T.V." containing agreements, visitor's pass, some handwritten

Q notes. know what the T.V.G. means?

A Do you know whose handwritten notes those are, that's

A Probably Mr. Etlinger's.

Q And you're looking at a sheet dated 2-5-68?

A Yes, a patient?

Q You say "probably Mr. Etlinger's"? I haven't used

A I can't say for sure.

Q Are you familiar with his handwriting?

A Yes.

Q Does that appear to be his handwriting?

A That is why I say possibly, but it is my best guess that it is. Teleprompter, dated January 8, 1968, but

Q Do you believe that it is?

A Yes, I believe it is. The next ones are some handwritten notes followed by a portion of a page from Electronic News of February 5, 1968.

Q Do you recognize the handwriting of those notes?

A I think I do, but I am not sure, again.

Q Whose handwriting do you think it is?

A I think it is Ralph Baer's.

Q Does that bear a date or other identification?

A 1/68. notes, dated 19 February, 1968.

Q Is there a title on that?

A "Possible approaches to T.V.G."

Q. Do you know what the T.V.G. means?

A. I don't know what it means, T.V. Gaming, maybe, that's only a guess.

Q. Has that term "T.V.G." been used in subject matter of these patents?

A. I have used the term "T.V. Gaming." I haven't used the term "T.V.G." but -- that one either. No, I can't.

Q. Would you go ahead with the identification of the documents in that file?

A. All right. It is a group of stapled documents, a letter and a copy of a letter from Mr. Baer to Mr. Cohn of Teleprompter, dated January 8, 1968, but unsigned; and the next one a letter from Mr. Schlafly of Teleprompter to Mr. Baer. The next one is a listing of some corporations, 1968. The next one is three attached to the other letters?

A. Yes. A visitor's pass from Mr. Cohn and some handwritten notes dated February 6, 1968.

Q. Do you recognize the handwriting on those notes?

A. I can't take a guess on that one. The next one is some further handwritten notes, also attached to the previous notes, dated 19 February, '68.

Q. Do you recognize the handwriting there?

A. Looks like Ralph Baer.

Q. Could you go ahead? What other documents are there in that file? *the come from the same folder but are not in the same order*

A. Two sheets of handwritten notes stapled together, along with a business card of Mr. Schlafly. The second of the two are dated 19 February, '68.

Q. Do you recognize the handwriting there? *no*

A. I can't take a guess at that one either. No, I can't guess. *it have come from another folder*

Q. Could you just maybe, a little more generally and not quite so specifically, tell us what else is in that folder marked C.A.T.V.? *there are many documents*

A. Two typewritten pages, three paragraphs identified by Roman numerals I, II, III. The next one is three pages, two typewritten pages plus some kind of a block diagram dated March 5, 1968. The next one is three pages; the top page is a letter from Mr. Etlinger, dated April 12, 1968, to Mr. Cohn. The next one is a letter from Mr. Etlinger to Mr. Cohn dated April 9, 1968. The next one is three typewritten pages entitled, "Sanders Associates/Teleprompter Association". The next one is eight pages stapled together entitled, "Functions of New Company". The next one is 12 stapled pages entitled, "C.A.T.V. Industry Summary". The last item in this file is 4 pages entitled,

31 A. "Program Plan".

Q. Did that file come from the same folder from which the other files -- the name was T.V. Gaming Devices, 300, Potential Licensees. Did that folder marked "C.A.T.V." come from there? *Is it a property agreement*

A. I can't recall where I found this folder. Perhaps some documents from it came from the same place. *What is this?*

Q. Could it have come from Mr. Baer's files? *What is this?*

A. His name is identified in the corner of the file. *What is this?*

Q. That is on the outside cover? *What is this while*

A. Yes, and some writing on there which could possibly be his handwriting. *What is this when*

Q. So it could possibly be. Does it appear to be in his handwriting? Are you familiar with it? *What is this within*

A. I would take a guess that it is. *What is this when*

Q. You're not sure where that came from?

A. No. *What is this when*

Q. Do you know who would know?

A. If it came from Mr. Baer's file, I assume that Mr. Baer would recognize the file. *What is this when*

Q. But you don't recall yourself? *What is this when*

A. No. When we pulled all the files, we didn't identify where we took them from. *What is this when*

Q. Did you obtain some of them from Mr. Baer? *What is this when*

A. Oh, yes, many.

Q. Would you take the next file and identify that, please?

Q. Do you know if there is MR. ANDERSON: Mr. Welsh, it  
after this seems that this will take an ordinary amount

A. We have never stipulated any amount of time. Is there any way, by agreement

Q. Would you incorporate any stipulation, that we can expedite this?

going into the specific MR. WELSH: I think we got

A. A Manila folder into more detail than I felt necessary,  
copies of agreement with the entire question of the C.A.T.V.

kind of a broad file. I don't know how to expedite where

G. B., P.C.M., they come from, and they relate to the  
same subject generally, and they came from

front page of different places, and I think we can avoid  
writing, also, the identification of the documents within

and what have you, and in other words, the  
signature in same upper right-hand corner appears to be

his. I think it is his. MR. ANDERSON: We'll agree to

keep them intact, the way they were

produced here today, if that will expedite

it. and we consider it to be confidential

and removed. MR. WELSH: I think that will

expedite it quite a bit.

Q. (By Mr. Welsh) Mr. Seligman, did you make a list of  
any places where the files came from or any index of

the files?

A. No, I didn't.

Q. Do you know if there is a plan to return the files after this matter is concluded?

A. We have never given it that much thought.

Q. Would you identify the next folder, generally, without going into the specific details, maybe?

A. A Manila folder containing lots of handwritten notes, copies of agreements, business cards, memorandum, some kind of a brochure entitled, "T.V.G. - Negotiations - G. E., R.C.A., Sylvania and Motorola". Ralph Baer's name appears in the upper right-hand corner of the front page of this folder, and I believe that's his writing, also appears a number of companies and dates and what have you on the front cover, and it does, the signature in the upper right-hand corner appears to be his. I think it is his.

MR. ANDERSON: I will hand you a document contained within a rubber band and we consider it to be confidential and removed from the file Mr. Seligman has just identified and show them to you under the Protective Order.

MR. WELSH: I think they were

furnished yesterday. ~~and so I understand.~~

MR. ANDERSON: Yes, I think you have seen them before.

MR. WELSH: Did they come from that file? ~~and so I understand.~~

MR. ANDERSON: They came from the first, R.C.A., Zenith and Motorola, which Mr. Seligman has just identified.

MR. WELSH: We haven't been doing this with respect to the others, but can put that in the file, unless you want to keep it out.

MR. ANDERSON: We have labeled each collection of confidential documents, as you know, and the one I just handed to you, and the file from which they were

A. A Manila folder removed. That is how I am able to identify

File Number as we go along, and I would rather, for

the moment, keep them separate, so there

would be no confusion as to who can see

what and so forth. ~~and so I understand.~~

Do you have what and so forth. ~~and so I understand.~~

in that file?

MR. WELSH: I believe that

Yes. ~~and so I understand.~~ Mr. Herbert said he was going to agree to  
the Confidential Disclosure Agreement.

440 Q. What other items, if any? MR. ANDERSON: So I understand.

441 Q. "G. E. License." MR. WELSH: Is it going to be

442 Q. And also, is it necessary for that to be typed up and  
is not enough signed in case we want to examine any of  
these documents during this proceeding? ect.

443 Q. The facts? MR. ANDERSON: I think we can  
work that out when the question arises.

444 Q. MR. WELSH: Fine., which I

3 Q. (By Mr. Welsh): Did your search reveal any other and  
documents relating to the licensing or sales? Protective

445 Q. MR. ANDERSON: I will hand  
Mr. Seligman two collections which are  
also confidential documents, which we the  
have removed from the production which  
he delivered to us, and I think is within  
that general subject matter.

A. A Manila folder entitled, "G. E. License T.V. Gaming,  
File Number 270".

Q. (By Mr. Welsh) Do you know where that file came from?

A. That would be a Patent Department file.

Q. Do you have some other loose documents that were not  
in that file? from the files of the Patent

A. Yes. There is an agreement labeled, "Company Private  
Data, 74-C 1030. Is the Patent files made available?

6 Q. What other identification is there on that? *ment plus*

A. "G. E. License, T.V. Gaming, File Number 270".

7 Q. And also, as far as I can see, that folder itself  
is not considered confidential?

A. Most of them bear a lock. MR. ANDERSON: That is correct.

8 Q. When you say the folder and one letter inside the  
mean file ~~co~~ folder are not confidential. The collection

A. Yes, bear a of documents clipped together, which I

9 Are those handed to the witness, are all stamped and

A. They are generally considered confidential under the Protective  
and opened Order. morning.

Q. Does some p<sup>t</sup> (Discussion off the record.) *ment have the*  
responsibility for that? MR. ANDERSON: I will hand the

A. My secretary ~~witness~~ another folder that we have  
closed the stamped as I indicated previously, and it  
some of the is under the Protective Order.

Q. (By Mr. Welsh) Would you identify that folder, or that?

A. please, Mr. Seligman? *ng them?*

A. Bears a title, "R.C.A. License Agreement, T. V. Gaming

A. File Number 269", but I really don't know.

Q. Do you know where that file came from? *to being locked?*

A. That would have come from the files of the Patent  
Department. *room in the area. The rest of it is open.*

Q. To whom is access to the Patent files made available?

A. The attorneys who work in the Patent Department plus the secretaries that work there. *other documents which*

Q. Are those files maintained under any particular security? *law, U.S. Patent, individual Proprietary*

A. Most of them bear a lock.

Q. When you say, "Most of them bear a lock," do you mean file cabinets in which the files are kept?

A. Yes, bear a lock.

Q. Are those maintained in a locked condition? *11 hand the*

A. They are generally locked at night before we go home and opened in the morning. *documents which we have*

Q. Does some particular person in the department have the responsibility for that? *goes.*

A. My secretary generally is the one that opens and closes the files, but not necessarily. Other nights, some of the other women do it. *person: They don't go*

Q. Does anyone have the ultimate responsibility for that?

A. For opening and closing them? *the outside of the file.*

Q. And making sure that they're closed? *current?*

A. Not that I know of, but I really don't know. *on*

Q. Is the Patent Department area subject to being locked?

A. No. There are only two offices, an office and a conference room in the area. The rest of it is open.

Q. Are the files then contained in the open part?

64 A. The open part. *same file as 126* File number 126

59 Q. Are there any more licensing or sales documents which

A. you have produced? *no, I don't have any.*

65 A. One entitled, "T.V. Gaming, Individual Proprietary

Agreements, File 292". *same file as 126*

0 Q. Do you know where that file came from?

A. That is a Patent Department file. *numbers?*

1 Q. Any others?

7 Q. What is that system? MR. ANDERSON: I will hand the

A. Consecutive witness another file which has on top of

new file is it a group of documents which we have ~~ugh~~ stamped to indicate they come under the

many times ~~ugh~~ many times stamped to indicate they come under the

any more, a Protective Order. *I have you, we may use*

the old number again. MR. KATZ: Were those taken

Q. Do you keep from the previous file? *numbers?*

A. Currently? MR. ANDERSON: They don't go

Q. An index, with anything else that I know of.

A. "T.V. Gaming Number 126" is on the outside of the file.

Q. (By Mr. Welsh) What is the loose document?

A. It is a three-page letter to Mr. Etlinger from ~~or~~ General Electric. *files that are not assigned numbers*

Q. Do I understand correctly they came out of this

A. T.V. Gaming File 126? *disclosures, patent*

A. Yes. *specifications, foreign patent applications, and so*

Q Do you know where this T. V. Gaming File number 126  
came from? *2/22/55* R15

A. Yes, the files of the Patent Department. *in them,*

Q The files from the Patent Department appear to have  
numbers assigned to them? *in other files and*

A. That is correct. *in the same, files, etc.*

Q Is there a system of incorporating numbers? *etc?*

A. Yes. *the current numbers.*

Q What is that system? *etc, etc, from the consecutive*

A. Consecutively, generally starting with one and each  
new file is assigned the next higher number. Though  
many times when a particular file is not needed  
any more, or destroyed or what have you, we may use  
the old number again. *Government contract files.*

Q Do you keep a record of current numbers? *contracts,*

A. Current? *the numbered files like you produced here*

Q An index, for example?

A. Yes, we have an index.

Q Do you apply or assign numbers to the files or sale?  
consecutively, regardless of the type of file, or sat  
do you have some files that are not assigned numbers  
consecutively? *by paragraphs of your request or*

A. Files containing patent disclosures, patent *three more*  
applications, foreign patent applications, and so *perhaps,*

forth are assigned numbers according to particular  
~~documents~~ *dockets* assigned documents for the particular case or  
application. Everything else is put into them,  
well, not everything else. Most everything else is  
put into the numbered files, contract files and  
other files that are kept separate, too. *are under the*

*R/5  
2/23/76*

Q. Do the contract files have a numbering system?

A. Yes, the contract number. *a third one is stamped on the*

Q. That is maintained separately from the consecutive  
numbering system that has been applied to the files  
that you have produced here today?

A. Yes. *The first one is called the parent Company File*

Q. These relate to contracts, do they not?

A. The contract files are Government contract files.

Q. Oh, and these files may include private contracts,  
that is, the numbered files like you produced here  
today?

A. Yes. *for example, a parent file (executed*

Q. Are there other files relating to licensing or sale?

MR. ANDERSON: I will repeat  
again: We have not tried to classify the  
files by paragraphs of your request or  
by subject matter, but we have three more  
files here that could be construed, perhaps,

*mistranscribed 2/23/76*

as relating to licensing or negotiations of licensing and I will hand those to the witness. Two of them are not marked confidential. One is under the Protective Order. I'm sorry. Mr. Williams has ~~noticed~~ corrected me that all three are under the Protective Order and two are stamped ~~any~~ inside and the third one is stamped on the cover.

Q. (By Mr. Welsh) We'll take them one at a time. Would you identify them, Mr. Seligman?

A. Yes. The first one labeled "Magnavox Company File Number 637 Royalty Reports".

Q. The next file?

A. The Magnavox Company drafts of an agreement file number 637.

Q. And the third?

A. The Magnavox Company file number 637 (Executed Agreement).

Q. Are there any other files relating to the licensing or sale of rights in the alleged inventions of said patent and/or negotiations relating thereto?

MR. ANDERSON: Nothing else ~~comes to mind~~ that comes to mind.

MR. WELSH: Of Sanders, of course.

MR. ANDERSON: Of Sanders.

Q. (By Mr. Welsh) Under paragraph three of the attachment to the subpoena and the deposition notices, there are described communications between Plaintiff Magnavox and Plaintiff Sanders relating to a, any business arrangements -- before we go on to that, the responses to the request for documents, which was similar in description of the documents and things to the attachment to the subpoena and other notices, of depositions, listed certain documents which would not be produced in their entirety, and referred to other documents from which portions, claiming to be subject to a claim of attorney-client privilege or attorney work product, were deleted. Now, the in this documents listed, I presume, are not included among those produced, is that correct?

MR. WILLIAMS: That is correct.

MR. WELSH: In other words, you are still not producing those documents?

MR. WILLIAMS: The numbers of documents listed are actually Magnavox

and in the custody of Sanders and would not be produced anyway.

MR. WELSH: Was the same thing true of the documents, which portions were deleted?

MR. WILLIAMS: That's correct.

Q (By Mr. Welsh) Now going on to paragraph three, referring to communications between Plaintiffs Magnavox and Sanders, relating to a business arrangement or agreement between them involving the alleged inventions or subject matter of said patents, have all of the documents falling in this description been produced, except for the others you're going to make available some time tomorrow?

MR. ANDERSON: That is correct.

Either they have been produced here in this room at the present time or they are in the group that we had given you copies of previously and will produce tomorrow as soon as we can.

MR. WELSH: The next subparagraph b. of paragraph C, "Communications relating to subject licensing of any other part under said patent or application

therefore", is the same thing true with respect to those documents?

privilege. MR. ANDERSON: I think you have the production of Sanders, paragraph 3b, and they have been identified or would be in the group that we'll bring in tomorrow morning.

ILLIAMS: Many of them are Macnaul's doc.

MR. WELSH: The responses to this paragraph, or the requests made at the claim of attorney-client privilege. First of all, there was an objection to the furnishing of documents with respect to royalty rates and I understand those copies which have been furnished with the royalty rates portion deleted, have now been made available to us under the Protective Order.

deposition of MR. ANDERSON: Yes. In this group that you referred to or, might be some in that category that you will see tomorrow morning.

response to the request to the produc... MR. WELSH: There was the response with respect to paragraphs a. through h. of paragraph three, parts that

objection insofar as the request documents for which claim of attorney-client privilege or attorney work product and a list of 18 specific written communications or documents relating to them, have those been brought to this deposition? that have been listed MR. WILLIAMS: Many of them are Magnavox documents. Some which we will want to MR. WELSH: While many of them may be, there are several of these others that are not solely Magnavox. Have those documents which are in the possession of Sanders been brought to this deposition? an advisement. MR. WILLIAMS: They're not in this room right now. Okay. I think we'll be able MR. WELSH: In other words,

Q By Mr. Welsh they have not been brought to the deposition for the reasons stated in your licensing objection to the subpoena, I presume?

patent or foreign patent MR. ANDERSON: That, plus our to said patent objection and our response to the request to the production of documents. They have

Q MR. WELSH: I might say that there may be some of these documents that

are listed, about which I would like to question various witnesses, even though I do not see the documents, it may be desirable to have them for the witnesses to view in answering the questions. Now, I know that some of the documents that have been listed in your responses to our requests, there have been some which we will want to have available when the witnesses are being examined. ~~or production~~

MR. ANDERSON: I suggest we face those as they arise or give us a short warning in advance and take it under advisement. ~~as far as possible, I will say,~~

MR. WELSH: Okay. I think we'll be able to do that. ~~in any event,~~

Q. (By Mr. Welsh) Now, going on with sub-paragraph c. of paragraph three, Communications relating to ~~subvention~~ licensing or subject licensing under any foreign patent or foreign patent application corresponding to said patents. Have those documents been produced?

MR. ANDERSON: No, they have not. As we stated on page 5 of our response to your request for production of

documents, those documents are neither relevant to the subject matter of the action and are not being produced.

not to bring MR. WELSH: Do I understand, also, that they're not being brought to the deposition under the subpoena?

of the party MR. ANDERSON: As it stated in the subpoena, we give the subpoena no greater power or credit than the Notices of Deposition for the request for production of documents and the subpoena is not a proper way to proceed against a party.

MR. WELSH: I don't propose to argue that at this point. I will say, however, that we do disagree with you.

MR. ANDERSON: In any event, the Federal Rule of Civil Procedure with provides for the objecting of production of any documents which relieves the necessity for providing it even if the subpoena is -- of any license relating

MR. WELSH: I don't believe they provide for failure to bring a document called for in a subpoena. Even

if the parties subpoenaed expect to object to them --

MR. ANDERSON: It is one matter not to bring them and another not to produce them. The subpoena does not require the production for the inspection of the parties responsible for the subpoena.

MR. WELSH: I have already indicated, some of the documents you have indicated in your response to request, for documents that we may want to examine the these witnesses with the documents in front of them; and, if we can agree, I believe there are only a few of those and we have agreed to furnish you with a list and, perhaps, we won't have a problem because there won't be many of those. Now with respect to sub-paragraph d., Communications identified as royalty or other payment made or collected in connection with or under said patent or any licenses relating thereto, have those documents been produced?

MR. ANDERSON: Yes, to the

best of our knowledge, you have seen those documents and the file has been laid before Mr. Seligman.

MR. WELSH: I am going to ask sub-paragraph e., Communications regarding the strengths and/or weaknesses of said patents. Have those documents been produced? Are they produced or they're not?

MR. ANDERSON: We don't classify, to the best of my knowledge, any files or documents according to the strength or weakness. We don't think the patents have any weaknesses. Whatever documents you might consider to fall into that category would be within the documents produced, in the custody or control of Sanders, of course. We are aren't producing here documents of some Magnavox.

MR. WELSH: These are communications between Magnavox and Sanders regarding the strengths or weaknesses of the patents?

MR. ANDERSON: Any documents

relating to the patents will have either been produced, that come from Sanders' files will have been produced here today or listed as privileged or a work product document and excluded, but of which you will have been notified. It is a question of how you ~~in~~ MR. WELSH: I want to be sure if they have been produced or, they're not listed. ~~think~~, could construe as product and order ~~g.~~ MR. ANDERSON: ~~be~~ That is true.

documents ~~in~~ MR. WELSH: ~~and~~ With respect to ~~led~~, sub-paragraph f. of paragraph three, ~~sity~~ Communications between Magnavox and Sanders regarding infringement of said patents or the possibility thereof by and/or any parties. ~~ossible~~ infringement of said patent and/or MR. ANDERSON: ~~t~~ The same is true as with respect to ~~e.~~ and the same would apply to ~~g.~~

Q (By Mr. Welsh) Did your MR. WELSH: ~~r.~~ That is, reveal documents of Communications regarding misuse of said I believe re patent or the possibility thereof by either Plaintiff? ~~plaintiff~~ ~~plaintiff~~ ~~plaintiff~~  
A The first one is a ~~nd~~, MR. ANDERSON: ~~on~~ Yes. ~~is~~

Information of a trip. MR. WELSH: H. is regarding A. contract she antitrust violations or the possibility

On what date thereof by either Plaintiff in the  
B. manner of licensing or enforcement of said patents.

Where did that document MR. ANDERSON: Again, with  
I don't know respect to those, I think it is a question  
from the Party of how you might construe those terms,  
whether he but any document that anybody, including  
Do you recall you, I think, could construe as product  
No, I don't, and under g. or h. would be within the  
Do you know documents listed or produced or identified  
The Memorandum We don't know any that we would classify

Distribution. MR. WELSH: Under paragraph  
Any distribution, the investigation by Magnavox and/or  
No. I don't Sanders of possible infringement of said  
Could you go patent and/or the examination of any  
Black Boone-video games in connection with such which  
days, "Video investigation. Sta File R. H. Baer",

Q. (By Mr. Welsh) Did your search, Mr. Seligman, reveal documents falling into this category? or dates when

I believe so.?

What are those? Show was held November 1, 2 and 3.

A. The first one is a red, bound folder containing

A. information of a trip report of Mr. Baer at the M.O.A. seminar show in Chicago.

Q. On what date or dates?

A. A memo of the trip report is November 13, 1973.

Q. Where did that document come from?

A. I don't know whether it is from Mr. Baer's files or from the Patent Department files. I don't recall whether he sent that over to us or not.

Q. Do you recall when you obtained that binder?

A. No, it is not identified.

Q. Do you know who prepared the memorandum?

A. The memorandum is from Mr. Baer.

Q. To whom is it addressed?

A. Distribution with the Index bear any signature.

Q. Any distribution indicated anywhere in the document?

A. No, I don't see any here.

Q. Could you go on to the next document?

A. Black loose-leaf notebook having a label on it which says, "Video Arcade Mach Data File R. H. Baer", contains a program of the 1974 M.O.A. show.

Q. Does that have a date, that program, or dates when that occurred?

A. Apparently the show was held November 1, 2 and 3.

Q. What is M.O.A., do you know?

A. Musical Operators of America. had seen the actual

Q. Is that what you know M.O.A. to be?

A. I never did remember what M.O.A. meant. removed from

Q. Go ahead and identify what documents are there in your

There appear to be sections. Perhaps you could --

A. There is a Table of Contents or an Index in the front

of it. your first request for documents or

Q. Could you read the Index? Interrogatories, which

A. A. is Coin Industry/Arcade Video Press Releases, you

et cetera. B. is not identified. documents relating

Q. Would you look at Section B. and see what's in industry

there? Products and at that time a set of

A. Nothing. documents were received from the book,

Q. Does the page with the Index bear any signature, ection,

anybody's name? they were here on the table in front

A. R. H. Baer. of you here yesterday and today, and later

Q. Is that where that notebook was obtained? include

A. I would guess from Mr. Baer's files. then Midway and

Q. Did you obtain it from him? and, consequently, the

A. I can't say for sure but it certainly is a notebook,

if he kept it, it is his writing all over it.

Q. Had you seen the notebook before obtaining it, to

produce here? were all removed from one section of the

A. I don't know. A lot of the documents in here are

familiar. I don't know if I had seen the actual ~~now~~ notebook.

MR. WELSH: Who did the

Q Do you know whether any documents were removed from this notebook before or after it was obtained in your search and before it was produced here for us? ~~we did,~~

~~as we understand~~ MR. ANDERSON: Mr. Welsh, in

your first request for documents or perhaps in the Interrogatories, which included the request for documents, you ~~of~~ specifically asked for documents relating to Midway and Chicago Dynamics Industry Products and at that time a set of documents were removed from the book, notebook, and produced for your inspection, and they were here on the table in front of you here yesterday and today, and later

Q (By Mr. Welsh) you brought in that request to include to be tabs or ~~names~~ of companies other than Midway and

A Yes. Chicago Dynamics, and, consequently, the

Q Could you ~~the~~ black book was produced, in response to ~~that~~, and ~~your~~ later broadened request.

A C. is labeled ~~correspondence~~ MR. WELSH: Do you know if they ~~it is illegal~~ were all removed from one section of the notebook, or different parts of it?

Q (By Mr. Welsh) There are MR. ANDERSON: I don't know?

A So. MR. WELSH: Who did the

Q Would you go removing?

A D. is labeled M.O.A. Show MR. WILLIAMS: to Ralph Baer.

Q Could you look at section MR. ANDERSON: to Ralph Baer did, particular - as we understand it, a particular M.O.A.

Q Show? MR. WELSH: Is that his

Q There is a notebook? older in D. which says November,

Q '74 M.O.A. Date. Origin MR. ANDERSON: R. To the best of

Q Anything else our knowledge, that is his notebook.

Q There are some copies of MR. WELSH: on Have any documents

Q memoranda of been removed because of a claim of

Q attorney-client privilege or of work,

Q product? looking at those upside-down, it

Q appears that MR. WILLIAMS: to In that originals

Q notebook, no. produced -- I mean copies

Q (By Mr. Welsh) Could you go on now? There appears to

Q be tabs or dividers in here, is that accurate? did

A Yes. produce? to the

Q Could you just go on with the reading of the Index

Q there, and I think you reached C. hen'today or

A C. is labeled Correspondence. The next word may be --

Q it is illegible. Anything else there in section D?

A Various broch (Discussion off the record) Bradstreet

Q (By Mr. Welsh) There are no documents in section C.?

A No newspaper release dated October 26, '73, by Allied

Q Would you go on with D.?

A D. is labeled M.O.A. Show Data Collection.

Q Could you look at section D.? Does that indicate a particular -- appear to relate to a particular M.O.A.

A show? It says Allied Leisure.

A There is a separate folder in D. which says November, '74 M.O.A. Data. Original is signed R. H. Baer.

Q Anything else in that section following those?

A There are some copies of handwritten notes, memoranda of a trip report of the second group have, a legend?

MR. WELSH: Mr. Anderson,

A You notice just glancing at those upside-down, it

Q Are there any appears that those might be the originals

A There is it which you have produced -- I mean copies

Q Are there in the notebook are the originals you

A Brunswick I might have produced earlier or you did

labeled four produce. It is labeled five in red or GA in

else part. It in red or MR. ANDERSON: We made no

foreplay. effort to correlate them today or in here.

I don't know yesterday. We can do that. more. The

Q (By Mr. Welsh) Anything else there in section D.?

A Various brochures of T.V. games, Dun and Bradstreet

report, brochures from a Cashbox Magazine and that is newspaper release dated October 26, '73, by Allied

Leisure. section appears to be E. Do you find any

Do those seem to be separated, the ones you're going through now, with yellow paper that has some legend

on it? re a section E. indicated on the Index?

Yes, it says Allied Leisure.

And has a number on it?

Yes, one. section E. relate to?

And a segregated document following those?

Yes. title or anything?

And what does the divider of the second group have, a legend? P.?

M. Utronics. P. C. Boards Manufacturing Data

Are there other sections?

Three is Atari. (Catalog) Data (a word I cannot read,

Are there other sections?

Brunswick is labeled three, Chicago Dynamics is labeled four, Midway is labeled five in red or 6A in

blue pen. 6 in red or 6B in blue pen is labeled 6. Fore-Play. There are a lot of other papers in here.

I don't know if they're broken down any more. The

next one is 7, Nutting Associates. 8 is P.M.C.

9 is Ramtech. 9A is EGA. 10 is U. S. Billiards.

Q. 11 is Williams Electronics Division Seeberg. That is the end of that section.

Q. The next section appears to be F. Do you find any section E.? *filed by A.I. Fore-Play at Kenneth Data.*

A. There is no section E. in here.

Q. Is there a section E. indicated on the Index?

A. There is a section E. indicated but there is no notation next to it. *J. Freeman File 603-673-5139.*

Q. What did section E. relate to? *in that file which you*

A. There is nothing there. *in that file which you*

Q. No title or anything? *there are just blank index pages.*

A. No. *index pages.*

Q. How about F.?

A. F. is titled P.C. Boards Manufacturing Data.

Q. G.? *mention by Sanders of possible infringement of*

A. G. is Component (Catalog) Data (a word I cannot read, *mention by Sanders of possible*  
Hardware). *mention by Sanders of possible*

Q. Are there any documents in section G.? *mention of*

A. Nothing. *mention of* in connection with such investigation.

Q. Is there any indication as to any documents identified *mention of*  
for section H.? *filed here entitled, "1975 M.O.A.*

A. S.D.S., Bid data. *Data (10/17, 18, 19) R. W. Baer".*

Q. Do you know what S.D.S. means? *came from?*

A. I don't know what he intended by it, no. *ment before*

Q. Are there any other documents in section H.?

A. No, as that contain a portion with papers bound.

Q. Is there a section I.?

A. I. is identified by A.L.Fore-Play at Kenneth Data.

Q. And there is a section I.? s.

A. No, t are the loose papers?

Q. How about J.? Does that appear in the Index? identified

A. J. is identified as J. Freeman File 603-673-5139.

Q. Are there any other documents in that file which you have not referred to yet? an article from Electronic

A. No, there are none. There are just blank index pages.

Q. Dividers? a of Electronic Magazine?

A. Dividers.

Q. You also have some other documents relating to A. investigation by Sanders of possible infringement of

A. patents in this suit. And Paragraph four is the

Q. investigation by Magnavox or Sanders of possible

A. infringement of said patents and the examination of

Q. any video games in connection with such investigation.

Q. Are there other documents? or Sanders of the possible

A. Yes, I have a red folder here entitled, "1975 M.O.A. Show, T.V. Game Data (10/17, 18, 19) R.J.H. Baer".

Q. Do you know where that document came from?

A. I can't be sure, if I have seen this document before

or not. ~~What is the name of the folder?~~

Q. Does that contain a portion with papers bound?

A. Yes. ~~That folder contains papers addressed to him.~~

Q. Are there loose papers in it also?

A. There are some loose papers.

Q. What are the loose papers? ~~What is the title?~~

A. The loose papers are one set of loose papers identified ~~as~~ V/T Buyers' Guide, 1975. 143 is listed. Whether this is page 143 or not, I don't know. The other is a reprint or a duplicate of an article from Electronic ~~Magazine~~, Magazine of October 30, 1975.

Q. What pages of Electronic Magazine? ~~What is the title?~~

A. 32 and 34.

Q. Is there also a program of the M.O.A., 1975 M.O.A. ~~What Show?~~

A. Yes. ~~What is the name of the folder?~~

Q. In that folder?

A. Yes. ~~What is the name of the folder?~~

Q. Did you bring any other documents relating to the investigation by Magnavox or Sanders of the possible infringement of the patent and/or the examination of any video games in connection with such ~~any pat~~ investigation? ~~What is the name of the folder?~~ ~~I will tell you,~~

A. A number of magazines. ~~What is the name of the folder?~~

Q. Where did you obtain those magazines? (by the witness?)

A. I assume we obtained them from Mr. Baer. I notice that certain ones of them anyway are addressed to him.

Q. Certain ones or all of them? (witness, October, 1975)

A. Certain ones. (witness, October, 1975)

Q. Which ones are addressed to him? Just give the title.

A. Coin Industry Playmeter, Vending Times, 1975, Guide  
Vending Times, Coin Industry Playmeter, April, '75,  
Coin Industry Playmeter, May of '75, Coin Industry  
Playmeter, June and July, '75, Coin Industry Playmeter,  
August, '75. Those are the only ones. (witness, October, 1975)

Q. Do you know who obtained these publications for an production here? (witness, October, 1975)

A. I didn't personally receive them. I can assume that they possibly came from Ralph Baer. (witness, October, 1975)

Q. Do you know who assembled them with the other documents to be produced here? (witness, October, 1975)

A. Maybe Mr. Williams. (witness, October, 1975) To go further with

MR. WELSH: I'm wondering from where they came from. Do you know? (witness, October, 1975)

MR. ANDERSON: They came from Ralph Baer and if a secretary put them in a pile or not, I can't tell you, but they came from Ralph Baer. (witness, October, 1975)

Q (By Mr. Welsh) Would you just identify the others?

A There's a Cashbox 33rd Anniversary Edition, '75-'76,  
Cashbox of November 10, 1973, Cashbox 1974, cf  
M.O.A. Expo Special, Replay Magazine, October, 1975,  
Vending Times International Buyers' Guide and  
Directory, 1975, Coin Industry Playmeter, December,  
'74, and Vending Times International Buyers' Guide  
and Directory, 1975. I guess some newspapers; they  
look like portions of newspapers. I'm not sure,  
maybe the whole thing, I don't know. Vending Times,  
June, 1975, Vending Times, October, 1974 --  
starting over again, June '75 Vending Times. I am  
not sure but I think Vending Times is V/T. Music  
and Games, and seems to have a different title in  
the upper right-hand corner and the large letters in  
the front, I think it is Vending Times June, 1975, it  
pages 43 through 60 of Vending Times.

Q I think that it won't be necessary to go further with  
those, as long as we have them and know they came from  
Mr. Baer. The other ones are copies of Vending Times  
or portions of ones you haven't identified? w them

A That's correct. ~~also in the file~~. I don't

Q Were any other documents produced relating to  
investigation by Sanders of possible infringement of

patents and/or examination of any video games in connection with such investigation? *You don't know and,*

A. I have another file here, a brown file full of miscellaneous papers. *... it is our best*

Q. Does that file have a title? *... file that either*

A. Yes, it does, Magnavox Miscellaneous information on Computer Gaming Devices. *... Patent*

Q. Is there a label which is fairly loose on there and just attached on one edge? *... any other documents*

A. Yes. *... produced in the*

(Discussion off the record)

Q. (By Mr. Welsh) Do you know where this file came from, to be added to the documents? *... That is all*

A. I can't recall this particular file. *... place in that*

Q. Was this also from Mr. Baer? *... to our recollection,*

A. Looking at the label, I could loosely guess that it came from the Patent Department files. *... document to the*

Q. Had you seen the file before it was added to the documents to be produced here? *... members of said*

A. I can't say for sure. So many of the documents look familiar in the file. I don't know if I saw them outside of the file or inside the file. I don't recall. *... in the office, with or without*

Q. Do you know who would know? *... any app., and*

A. Maybe Mr. Etlinger. for deflecting or responding  
to a question of the court. MR. WELSH: You don't know and,  
as far as I know, Mr. Williams, you don't know?

MR. ANDERSON: (Continued) It is our best  
information that it is a file that either  
came from the Patent Department or  
possibly Mr. Etlinger in the Patent  
Department.

Plaintiff as to placing Plaintiff under MR. WELSH: Any other burden  
to supply the documents which will be produced in the  
made at all category of paragraph four? (Discussion off the record)

of Deposition? MR. ANDERSON: That is all

that we can immediately place in that  
category. Everything, to our recollection,  
has been produced.

Q. (By Mr. Welsh) Paragraph 5 of the attachment to the  
subpoena and deposition notices calls for the  
examination of any of the named inventors of said  
patent or either Plaintiff thereof, of any game or  
gaming device or documents disclosing same, re locked  
employing a cathode ray tube displaying at least  
two images to the viewer, operating with or without  
a rafter scanning beam sweep of any type, and that

containing circuitry for deflecting or responding to coincidence of the position of the images: a) prior to January 15, 1968, b) between January 15, 1968 and May 27, 1969, c) between May 27, 1969 and April 15, 1974. The response to this request for documents constituted an objection to the paragraph insofar as the requested production of documents relating to an examination by either Plaintiff as in placing Plaintiffs under undue and unnecessary burden to supply the requested information. Was any effort made at all to search for documents falling within this category in response to the subpoena or Notice of Deposition? ~~sections~~, we did state we made an effort

to produce. MR. ANDERSON: The witness has already testified about the search that was done and with respect to all of categories, I believe. You indicated that those persons WITNESS: ~~la~~ All categories

with all pertinent information that could be located in Sanders Associates relating to the entire subject matter were looked for and gathered by myself and those people that aided me.

Q. (By Mr. Welsh) I believe that you indicated that

your search did not include any training devices.

A. Physical training devices? such that was made and

Q. Yes. the people conducted, and so forth, and,

A. Yes, that is true. best of my knowledge, I think that

testimony of MR. WELSH: Do the Plaintiffs

continue to object to this document than that,

request? attorney was generally given and

would not a MR. ANDERSON: As stated in

our response of August 11, 1975, yes, we

do. I might state, with respect to the

objection, we opposed with regards to

subjects a. and b. in spite of our in

objections, we did state we made an effort

to produce of Plaintiffs having direct

responsibility. MR. WELSH: I would like to

make one inquiry. In the latter part of

your objection there, you indicated that

those personnel of Plaintiffs, having

direct responsibility for the maintenance

of this action, have no knowledge of the

existence of any such documents. I certain

wonder if you could identify who those

personnel are? lawyer, Mr. Flinck,

Now inquiry of MR. ANDERSON: I think self,

Mr. Seligman has testified about the scope of the search that was made and the people connected, and so forth, and, to the best of my knowledge, I think that testimony applied to this paragraph and to the extent that it was broader than that, or his testimony was generally given and would not apply to this paragraph, I think you have to get that from him.

MR. WELSH: I think these responses were signed by you and the personnel, I presume you had certain people in mind when you referred to those personnel of Plaintiffs having direct responsibility for the maintenance of this action. I am just seeking identification of those people. He was not asked about that.

MR. ANDERSON: Again, I can only state as is true in producing documents or other discoveries, certain tasks are delegated, we intended to include Mr. Seligman, Mr. Etlinger, that Mr. Briody and Mr. Williams and myself.

and anyone that searched by delegation,  
by any of them. the subpoena was served  
and the Deen: MR. WELSH: I wasn't asking  
for persons who were searching. This is  
personnel of Plaintiffs having direct  
responsibility for the maintenance of in  
this action. 120, between then and

April 15, 19<sup>th</sup> MR. ANDERSON: If we had any  
knowledge, we would have not relied upon  
this technicality not to provide it for  
your request for the production of I guess  
documents. Is whether you continue your  
objection to MR. WELSH: With respect to  
your objection as to sub-paragraph c. on  
page 8 of your responses, are you  
continuing that objection? I might say that,

assuming that MR. ANDERSON: Yes, we are.  
I think you may have material falling  
within paragraph c, as a result of some  
other request, but that would be because  
they also fell within some other request,  
such as the one we just covered.

of the PPS p. MR. WELSH: At the time that  
this request was made, the reissue patent

had not yet issued, I believe, and, however, at the time that the subpoena was served and the deposition day, of course, the reissue patents have issued.<sup>21</sup> So we're talking about a later date and I just wondered, I think that the time period in c. is May 21, 1969, between then and April 15, 1974.

MR. ANDERSON: The time period in c. is May 27, 1969.

MR. WELSH: I'm sorry. I guess my question is whether you continue your objection to produce documents in that category following the period subsequent to May 27, 1969?

MR. ANDERSON: I might say that, assuming that the selection of the date, May 27, 1969, was based upon the filing dates of patent applications involved in this litigation and we did extend our search beyond May 27, 1969, up to August 21, 1969, which was the filing date of the 285 patent application, so we interpreted paragraphs b. and c. as intended

to go up to the filing dates of the patent applications in suit and did not cut off our work based on May 27, 1969, but rather based on August 21, 1969, but did not extend beyond that. Our objection under c. relates to all work after August 21, 1969.

MR. WELSH: And you're continuing on with that?

MR. ANDERSON: We're standing on that objection.

MR. HERBERT: The filing date is August 25th and not the 15th.

MR. WELSH: I realized that as I read it.

(The deposition recessed to be resumed at a later date.)

Whereupon the deposition of Richard I. Seligman was adjourned to be continued November 21, 1975, at 9:30 a.m.

Richard Seligman  
Deponent